UNITED
NATIONS

E

Economic and Social
Council

Distr.
GENERAL

E/C.12/1996/SR.1
23 May 1996

ENGLISH
Original: FRENCH

COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Fourteenth session

SUMMARY RECORD OF THE 1st MEETING

Held at the Palais des Nations, Geneva,
on Tuesday, 30 April 1966, at 10 a.m.

Chairperson: Mr. ALVAREZ VITA

CONTENTS

CONSIDERATION OF REPORTS:

(a) REPORTS SUBMITTED BY STATES PARTIES IN ACCORDANCE WITH ARTICLES 16 AND 17 OF THE COVENANT

Initial report of Paraguay

This record is subject to correction.

Corrections should be submitted in one of the working languages. They should be set forth in a memorandum and also incorporated in a copy of the record. They should be sent within one week of the date of this document to the Official Records Editing Section, room E.4108, Palais des Nations, Geneva.

Any corrections to the records of the public meetings of the Commission at this session will be consolidated in a single corrigendum, to be issued shortly after the end of the session.

GE.96-15983 (E)

The meeting was called to order at 10.10 a.m.

CONSIDERATION OF REPORTS:

(a) REPORTS SUBMITTED BY STATES PARTIES IN ACCORDANCE WITH ARTICLES 16 AND 17 OF THE COVENANT (agenda item 4)

Initial report of Paraguay (E/1990/5/Add.23; HRI/CORE/1/Add.24)

1. At the invitation of the Chairperson, Mr. Loizaga and Mr. Ugarriza (Paraguay) took places at the Committee table.

2. Mr. LOIZAGA (Paraguay) said that it was a great honour for him to submit for the Committee's consideration the initial report of Paraguay and to reply orally to the list of issues (E/C.12/1995/LQ.1/Rev.1), in accordance with the commitments entered into by his Government since the advent of democracy in Paraguay. In that connection, the Government had complied with its undertaking to ratify in their entirety the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights.

3. Because of the recent anti-democratic political events in his country, Paraguay had been unable to send a specialist delegation to Geneva to answer the Committee's questions. He would, however, do his utmost to reply to those questions and, in so doing, hoped to show that Paraguay was making every effort to comply with its commitments under the International Covenant on Economic, Social and Cultural Rights. It was in fact encountering some difficulties in monitoring implementation of the rights set forth in the Covenant, weighed down as it was by a past deeply marked by authoritarianism and dictatorship. Paraguay was passing through a period of apprenticeship for democracy and for the implementation of human rights in general. None the less, in the past four years, it had given priority to education, which was the first item of expenditure in the State budget. Free primary and compulsory education and the establishment of technical schools were further measures designed to promote the integration of all Paraguayans into the national community. In order to comply with its commitments to the International Labour Organization, Paraguay had drafted a new Labour Code in 1993, in close collaboration with the trade unions. Paraguay, therefore, was a State governed by the rule of law which believed in a rational approach and dialogue.

4. As for peasant demonstrations, which a non-governmental organization (NGO) had referred to at an informal meeting the previous day, legal proceedings had been instituted and the law, which was totally impartial, was taking its course. Unfortunately, the information supplied by the NGO in question was inaccurate and did not take account of the actual situation in Paraguay.

5. The CHAIRPERSON invited the representative of Paraguay to reply to the questions in the list of issues (E/C.12/1995/LQ.1/Rev.1).

6. Mr. LOIZAGA (Paraguay), starting with the general framework for the implementation of the Covenant, said that its provisions had been fully

incorporated into his country's positive law and therefore had legal force. They were implemented in so far as the difficult political situation in Paraguay allowed. What held sway in Paraguay at the present time was the political aspect, which meant that the implementation of certain legislative decisions or various initiatives taken by the executive in the sphere of economic, social and cultural rights had had to be postponed. A plan to reform national education currently under consideration would, however, make it possible to increase compulsory and free primary schooling and to reduce illiteracy.

7. With regard to questions 2 and 3 on the list of issues, the international instruments to which Paraguay was a party were not automatically incorporated into national law. The incorporation procedure was laid down in the Constitution, which stipulated that international instruments should be ratified by Parliament and then approved by the executive, following which they were deemed to form part of national positive law and were therefore binding.

8. As to which economic, social and cultural rights could in fact be invoked before the courts and what jurisprudence there was in that respect, there had been one case in which the court, in an action brought by the plaintiffs, had ordered the enrolment of a number of young people who had been denied the possibility of enrolment and of continuing their studies in an educational establishment.

9. With regard to question 4, the punitive laws which had been in force under the previous regime, namely, Acts Nos. 294/55 and 209/70, had been repealed by the Government on 4 September 1989.

10. On question 5, a Directorate General for Human Rights had been set up in the Ministry of Justice and Labour to monitor the implementation, by the Government and official bodies, of all matters pertaining to the commitments entered into by Paraguay in the human rights field. The main function of the Directorate-General was pedagogical. It endeavoured to make human rights in general and the provisions of the Covenant in particular well known in Paraguay. It had still not realized its potential but the Government was taking the necessary steps to increase its budget and staff so as to provide it with the means of ensuring that Paraguay complied with its obligations under the Covenant.

11. Question 6 called for a very technical answer, which his delegation would do its best to give as soon as it had the necessary detailed information.

12. The CHAIRPERSON, thanked the Paraguayan representative and invited members of the Committee wishing to seek clarification to take the floor.

13. Mr. TEXIER thanked Paraguay for its initial report, which gave a very interesting account of its historical development; the Committee would certainly take it into account. Paraguay had undergone a remarkable transition, moving peacefully from dictatorship to a democracy that was as yet fragile - as was apparent from the recent attempted coup d'état - and needed to be consolidated. He was pleased to note that, under the 1992

constitutional reform, a large part of both Covenants, and in particular the International Covenant on Economic, Social and Cultural Rights, had been incorporated into the legal system.

14. The question whether economic, social and cultural rights could in fact be invoked at law would, in his view, be of considerable interest to the Committee, which could take it into account when drafting the Optional Protocol, an instrument linked to the "justiciability" of rights. It would also be interesting to know whether legal proceedings had been brought in other areas covered by the Covenant. For example, could infringements of trade union rights and the right to housing be the subject of legal proceedings?

15. The Paraguayan representative had made no mention of the role of NGOs. While the drafting of a report was the Government's responsibility, it should provide an opportunity for public debate at the national level. He would therefore ask the Paraguayan delegation to inform the Committee whether the initial report (E/1990/5/Add.23) had been distributed in Paraguay and whether NGOs and trade unions had had an opportunity to give their opinion on its content.

16. Mrs. BONOAN-DANDAN said she was surprised that written replies to the list of issues had not been communicated to the Committee. For instance, the Paraguayan representative had stated that certain information submitted by one NGO to the Committee at an informal meeting the previous day was false. She regretted that the Paraguayan representative had not provided concrete data, and particularly statistics or reliable information, on the basis of which the Committee could form an opinion in the light of all the facts. It would be helpful if the Paraguayan delegation could provide the Committee with detailed information on the substance of the question.

17. She endorsed Mr. Texier's request that the Paraguayan representative should provide the Committee with information concerning the preparation of the initial report of Paraguay. Had it given rise to a public debate? Had independent organizations and prominent independent persons participated in it? Had the public been informed of Paraguay's obligation to submit a periodic report to the Committee and, in particular, of the existence of the Covenant and Paraguay's obligations under it?

18. Mr. CEAUSU said it was his understanding that there was no official national body in Paraguay with responsibility for compiling and publishing statistical data; that task fell to public or private bodies and for that reason, the data, which emanated from different sources were sometimes contradictory. Furthermore, since no dictatorship could exist without the support of the armed forces, he would like to know how the country's democratic institutions functioned at the present time and what the role and position of the army and military institutions were in the structure of the State, and in the administration. He would also like to know for what percentage of the population Guarani was the mother tongue. Lastly, with regard to the distribution of international human rights instruments, he would like to know more specifically whether the Covenants were printed and distributed in the form of a brochure or whether they appeared in compendiums. Also, were they published in Guarani?

19. Mr. AHMED said that during the transitional phase from dictatorship to an open democratic society the Paraguayan Government, headed by Mr. Wasmosy, would have to overcome the difficulties of which the Paraguayan representative had spoken frankly. The Committee's task was to help it to resolve those difficulties. Furthermore from the initial report of Paraguay (E/1990/5/Add.23) and information provided by various NGOs, it was clear that the poverty afflicting Paraguay and the land tenure regime currently in force were among the main obstacles being encountered by the new democratic Government. He would like to know more about the difficulties the Government had had in Parliament in getting its economic reform programme approved and implemented, in changing the land tenure regime and in giving land to the indigenous people and peasants struggling against the system of large estates. What chance was there, in those circumstances, of engaging in economic reform and introducing a little more social justice?

20. Mr. ADEKUOYE, referring to paragraph 187 of core document HRI/CORE/1/Add.24, asked what the Directorate-General for Human Rights had done in the past three years to ensure the distribution of international human rights instruments, bearing in mind that certain population groups did not know their rights. What had been the results of such activities and who was responsible for the fact that the indigenous population were unaware of their rights of ownership?

21. Mrs. JIMENEZ BUTRAGUEÑO (Rapporteur for Paraguay) said that she would like to have more detailed information about the Directorate-General for Human Rights. What was its precise function and what links did it have with civil society and NGOs?

22. Mr. THAPALIA asked for information about the provisions governing child labour and the implementation of the right of children to education.

23. Mr. LOIZAGA (Paraguay) explained that the initial report submitted by Paraguay (E/1990/5/Add.23) had been prepared by the Directorate for Statistics and Census Returns, which carried out all studies and censuses in the various areas covered by the Covenant, such as access to culture and work. The Technical Secretariat for Planning, which was directly responsible to the Office of the President of the Republic, and the Directorate-General for Human Rights within the Ministry of Justice and Labour had also contributed to it. He did not, however, know whether the trade unions had played a direct part in its preparation although, since 1989, the trade unions and NGOs had played an active part in acquainting the population as a whole with economic, social and cultural rights. Frequent debates, open to all, were held on the subject and seminars were organized throughout the country.

24. Human rights were taught at the General University of Asuncíon, and in particular in the Faculty of Law, as part of humanitarian law. As from 1996, that subject was to be included in the primary school syllabus in order to familiarize young people with the content of the Covenants and international conventions and with the protection of human rights.

25. As to the armed forces, serving military personnel were expressly prohibited, under chapter XV of the current Constitution, from belonging to a political party or engaging in political activities.

26. There was no racial discrimination in Paraguay; only one category of citizens existed and it included the 70,000 to 100,000 indigenous people who were spread among the country's 17 ethnic groups out of a population of 4.8 million. The National Indigenous Institute was responsible for indigenous affairs and the Government had taken steps to provide the indigenous people with sufficient physical space to carry out their activities and live in humane conditions.

27. The Constitution proclaimed that Paraguay was a pluri-cultural country whose official languages were Spanish and Guarani - the latter being treated as anything but a minority language. Moreover, there was a special office with responsibility for solving the problems created by bilingualism. As for the distribution of the texts of human rights instruments, the notable work done by the NGOs since 1989 deserved special mention. The texts in question were published in Spanish and Guarani.

28. Paraguay was endeavouring to give effect to the principles laid down in the Constitution, though theory was far removed from practice. The Constitution should be an instrument of economic and social development, social justice and the fair division of wealth.

29. As to the agrarian question, the large unproductive estates (latifundia) were gradually being reincorporated into the national economy and allocated to landless peasants. Over 130,000 hectares of such estates had been expropriated since 1989 by decision of Parliament and under the terms of the Constitution. The agrarian question, which was under study, formed an important part of the national debate. The expropriation procedures were not always well received, of course. Some expropriations were challenged before the courts on the ground that they were unconstitutional or did not fulfil the social function they were supposed to perform. The executive, in accordance with the principle of the separation of powers, did not intervene in judicial matters. In order to promote dialogue between the different social and economic actors, the Government had set up the National Council for Social Development, in which, among others, the trade unions, the political parties, farmers' organizations, and representatives of private-sector industries and stock breeders took part.

30. Privatization too was a highly sensitive topic in the national debate. The trade union organizations apparently failed to see the positive influence privatization could have on the workers' situation and did not realize that if the State disengaged from certain economic sectors it could play a more effective role in the areas that belonged to it alone.

31. As to child labour, it could not be denied that there were children who worked in Paraguay at the present time. Often, however, they worked in a rural environment and in a family context, for example, in the countryside helping their parents to harvest cotton. He had no detailed information on child labour but, should the Committee so wish, his Government could forward fuller information on the matter.

32. Mrs. JIMENEZ BUTRAGUEÑO (Rapporteur for Paraguay) said that she would like to know more about the National Council for Social Development, which seemed to be a very interesting body.

33. Mr. RATTRAY said that in many countries privatization was perceived as a threat to the enjoyment of economic, social and cultural rights and that it was in fact important for those rights to be accompanied by a number of guarantees. Since the rights laid down in the International Covenant on Economic, Social and Cultural Rights were guaranteed under the Paraguayan Constitution and could be invoked before the courts, he would like to know whether privatized undertakings, particularly those providing essential services which directly affected the enjoyment of such rights, were bound to respect the rights set forth in the Covenant and guaranteed by the Constitution. Would they be answerable in the event of failure to observe those rights?

34. Mrs. BONOAN-DANDAN, referring to the Paraguayan representative's statement that the indigenous communities were not subject to any discrimination, pointed out that a report of one NGO - International Women's Rights Action Watch, of 17 April 1996 - stated that the laws of Paraguay which dealt with indigenous peoples, though excellent, were not applied in practice. Apparently the indigenous communities, namely, the Indians, were not even aware of the existence of such laws. The situation of Indian women was said to be particularly critical because they belonged to a minority and were women. The position of such women did not seem to be really taken into account either by the National Secretariat for Women or by the Ministry of Education. Apparently there was no education plan for the indigenous peoples. It was a matter of record that lack of schooling for Indian women and girls reinforced their isolation, confined them to domestic tasks and prevented them from obtaining a vocational qualification. Furthermore, indigenous women who did domestic work were paid either in kind or half as much as other women. It was also said that young Indian girls who had been recruited as maids were exploited and abused. She would like to have further information on the situation of indigenous people and of women in particular.

35. On the question of child labour, she would refer to the 1993 UNICEF report according to which children worked as house servants both in the country and in the towns. Moreover, the number of children working in the street in Asunción was on the increase. UNICEF also stressed that girls were exposed to violence and prostitution. Again, it would be useful to have further details.

36. The CHAIRPERSON, speaking as a member of the Committee, said that he would like to know what was the situation of the Guaranis and the place of the Guarani language. Under the Constitution Guarani too was an official language. Was it used in Parliament, in the press, on television and before the courts? Were laws translated into Guarani? Was Guarani losing ground to Spanish?

37. Mr. LOIZAGA (Paraguay) said that Guarani was not in decline, quite the contrary. For 30 or 40 years, and particularly during the past 10 years, it even seemed to be advancing. It was taught as a compulsory subject for the first three years of secondary education. The Constitution was translated into Guarani. Any party to or witness in a trial could express himself in Guarani during the hearing. The use of Guarani was very widespread at all levels.

38. As for privatization, in the event of the privatization of public enterprises that did not provide essential public services directly, the employees of such enterprises enjoyed priority in the purchase of shares. In general privatization remained a very sensitive issue in Paraguay. The important point was that, in the case of the privatization of companies that supplied essential public services such as water and telecommunications, the State could exercise control in the interests of the consumers, namely, its citizens.

39. With regard to indigenous people, it was true that some indigenous communities were in a difficult position, particularly those settled in the western region of the country, who were often outside the control of the administration. Cases of discrimination were in his view, an exception, which, it was none the less right to be concerned about just as the NGOs were. The situation of children, and in particular the dramatic problem of street children, represented a challenge which was faced by South America as a whole. His Government was endeavouring to find the most suitable ways of combating child labour and poverty.

40. The CHAIRPERSON invited the Paraguayan delegation and members of the Committee to turn to Section II, "Questions relating to the general provisions of the Covenant".

41. Mr. LOIZAGA (Paraguay) said that he would not be in a position to provide detailed information on the questions dealt with in Section II. Information supplementing his replies would be communicated later in writing by his Government, which would also forward to the Committee the decree establishing the National Council for Social Development.

42. Mr. AHMED, noting that Paraguay now welcomed foreign investors, and in particular Korean and Chinese businessmen and Brazilian stockbreeders, said that he would like to know what their legal position was. Apparently they were encouraged to invest in the country but they did not enjoy full access to the courts. What was the position exactly?

43. Mrs. BONOAN-DANDAN said she would like to know how the Committee would proceed if the Paraguayan delegation did not answer the questions to be taken up under Section II. What conclusions could it draw when it came to draft its concluding observations?

44. The CHAIRPERSON said that members of the Committee would be entirely free to say whether or not they were satisfied with the Paraguayan delegation's replies and explanations at the closed meeting to be held on the concluding observations concerning Paraguay.

45. Mrs. BONOAN-DANDAN said that the Paraguayan Government must provide further information on the situation of indigenous people and indigenous women in particular. In her view, the question could not be evaded simply by describing the cases of discrimination as exceptions. She would like to know as a matter of urgency what the Paraguayan Government was doing specifically to provide the indigenous communities and the women in those communities with adequate protection.

46. Mrs. JIMENEZ BUTRAGUEÑO (Rapporteur for Paraguay) said that, with a view to a later reply from the Paraguayan Government, she would draw attention to the importance of article 3 of the Covenant. It would be interesting to know precisely what the status of women was in Paraguay.

47. Mr. LOIZAGA (Paraguay) said that foreigners were not guaranteed equality of rights under the Constitution but could play a part in the taking of decisions at the communal level. Paraguay received Italian and German, as well as Chinese and Korean, immigrants. Foreigners could assert their rights before the courts. Should their rights be infringed, their case would be considered by independent judges and without discrimination. It should be noted in that connection that, since 1994, the Paraguayan judicial system had been completely reformed.

48. The Secretaría nacional de la mujer (National Secretariat for Women) had been established in 1993 to promote the rights of women, and hence those of indigenous women. He did not have information on the specific cases referred to by the Committee, but assured it that the Government was doing everything possible to ensure the equality of all women.

49. Mr. AHMED said that he was not questioning Mr. Loizaga's sincerity, but a report of the United States State Department on Paraguay spoke of discrimination against Korean and Chinese citizens, particularly in the case of access to the housing market and private education. He would like to know whether such cases were the exception or whether they were a frequent occurrence.

50. Mr. LOIZAGA (Paraguay) said that the United States State Department often judged countries according to very different parameters. The Paraguayan army numbered colonels of Japanese origin among its ranks, and public and private colleges, in particular the American College in Asunción, took in Korean and Chinese children as well. The Paraguayan people had a favourable attitude towards Korean and Chinese citizens even though some of the immigrants were a poor reflection on their respective communities. In Paraguay, foreigners were welcome and they were not subjected to persecution.

51. Mrs. JIMENEZ BUTRAGUEÑO (Rapporteur for Paraguay) expressed concern at the legal position of the indigenous peoples in Paraguay, several NGOs and the press having reported that some of them had been expelled from their lands and had been the victims of violence, particularly in the Tacuapú area. What steps was the Paraguayan Government taking to put an end to such incidents?

52. Mr. LOIZAGA (Paraguay) said that the Government played the role of mediator between landowners and communities and, more often than not, found a peaceful solution to their disputes. The largest indigenous reserve in Latin America was situated in Paraguay, at Mbaracayu. It covered an area of 50,000 hectares and four indigenous communities lived there. The Government had played a very important role in connection with it and had agreed with the financial body that held the mortgage over that private property that it could be turned into an ecological reserve and that the communities who inhabited it could be allowed to remain there. As in that case, the Government was doing

everything in its power to respect the traditions of the indigenous peoples and to allow them to live in their natural habitat, while at the same time affording them the possibility of adequate housing.

53. The CHAIRPERSON invited the Paraguayan delegation to turn to the questions contained in Section III of the list of issues (E/C.12/1995/LQ.1/Rev.1).

54. Mr. LOIZAGA (Paraguay) said that the Agrarian Reform Institute was responsible for the supervision of land tenure, land distribution and establishment of settlements. In addition, the National Development Bank was responsible for aid to projects in that field. Similarly, the Crédito Agrícola de Habilitación provided economic and technical support for the rural sector. A number of services in the Ministry of Agriculture and Stockbreeding also operated in that area. A national rural conference, to be attended by farmers' and government representatives, was shortly to be held with the aim of finding answers to the needs of rural areas.

55. The informal sector received technical assistance from the National Vocational Training Service. As for micro-enterprises such as street vendors, an NGO, Cooperación para el desarrollo, provided them with assistance, with government support. Lastly, the National Council for Economic and Social Development ran a programme in that area.

56. Mr. TEXIER said that, as was the case throughout Latin America, there was a significant proportion of informal employment in Paraguay. Informal employment was precarious and did not have the protection of social welfare. Did the Paraguayan Government take any measures in that regard? Furthermore, in regard to the table in paragraph 97 of the initial report which showed a 12 to 14-year age group among persons in employment, the fact that children 12 to 14 years of age worked conflicted with articles 6, 10 and 13 of the Covenant. And did those children attend school? What steps were taken to ensure that children did not have to have a job? The same table also referred to the 15 to 19-year age group: in his view, it was not desirable for 15-year-old children to work.

57. Mr. CEAUSU said that he would like to have further information concerning the statement in paragraph 87 of the initial report to the effect that, with the aim of raising the productivity and income of the rural population, an aggressive agrarian reform policy was being implemented. How many agricultural holdings were there in Paraguay and what area did they cover? What was the proportion of farm owners and farm workers to the economically active population? In countries moving towards a market economy, foreign investment was necessary to achieve that economy. What was the position in Paraguay in that regard? What effect did foreign investment have on employment? In his own country, foreign investors endeavoured to occupy a dominant position and to exercise an economic monopoly so as to influence prices.

58. Mrs. JIMENEZ BUTRAGUEÑO, commenting on agrarian reform, said she would like to know whether unproductive farms had been expropriated.

59. Mr. LOIZAGA (Paraguay) said that, owing to recent events in Paraguay, the government specialists who could have replied specifically to those questions had unfortunately not been able to come to Geneva. It was a matter of concern to the Government that many children worked. That was due to the country's fragile economic structures and to the high cost of servicing the foreign debt. None the less, in six years, the Government had managed by strenuous effort to improve public finances. Furthermore, the Instituto de Bienestar Rural (Rural Welfare Institute) was in the process of formalizing the system of land tenure: for properties of over five hectares, the owner must be in possession of a document of title in order to obtain a bank loan. The Institute was also responsible for entering such properties in a land register.

60. Paraguay was a country with a full market economy. It belonged to MERCOSUR, a common economic market composed of Brazil, Argentina, Uruguay and Paraguay, which benefited employment, particularly in the sector for the processing of various raw materials such as soya and cotton and in the livestock-breeding sector.

61. Mr. TEXIER said the Committee appreciated the difficult economic situation faced by Paraguay. None the less, regardless of such economic agreements as MERCOSUR and the cooperation agreements it had entered into, Paraguay must respect the "hard core" of economic, social and cultural rights, and in particular articles 10 and 13 of the Covenant concerning child labour and the compulsory nature of primary education. States parties to the Covenant must therefore take specific measures to that end.

62. Mr. LOIZAGA (Paraguay) stressed that, despite economic difficulties, the Government was taking action to combat child labour. Children had access to education and young persons who had to work to meet their needs could attend evening classes. Unlike in the developed countries, the Paraguayan State was not in a position to provide its citizens with social security benefits or to pay them unemployment benefits. The Government was doing everything in its power to alter that state of affairs.

The meeting rose at 1 p.m.

UNITED
NATIONS

E

Economic and Social
Council

Distr.
GENERAL

E/C.12/1996/SR.2
3 May 1996

Original: ENGLISH

COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Fourteenth session

SUMMARY RECORD OF THE 2nd MEETING

Held at the Palais des Nations, Geneva,
on Tuesday, 30 April 1996, at 3 p.m.

Chairperson: Mr. ALVAREZ VITA

CONTENTS

CONSIDERATION OF REPORTS:

(a) REPORTS SUBMITTED BY STATES PARTIES IN ACCORDANCE WITH ARTICLES 16 AND 17 OF THE COVENANT (continued)

Initial report of Paraguay (continued)

This record is subject to correction.

Corrections should be submitted in one of the working languages. They should be set forth in a memorandum and also incorporated in a copy of the record. They should be sent within one week of the date of this document to the Official Records Editing Section, room E.4108, Palais des Nations, Geneva.

Any corrections to the records of the meetings of the Committee at this session will be consolidated in a single corrigendum, to be issued shortly after the end of the session.

GE.96-15986 (E)

The meeting was called to order at 3.10 p.m.

CONSIDERATION OF REPORTS:

(a) REPORTS SUBMITTED BY STATES PARTIES IN ACCORDANCE WITH ARTICLES 16 AND 17 OF THE COVENANT (agenda item 4) (continued)

Initial report of Paraguay (continued) (E/1990/5/Add.23; E/C.12/1995/LQ.1/Rev.1)

1. At the invitation of the Chairperson, Mr. Loizaga and Mr. Ugarriza (Paraguay) took places at the Committee table.

Article 7. Right to just and favourable conditions of work (issues 16-21)

2. Mr. LOIZAGA (Paraguay) said in reply to the issues raised regarding article 7 that his Government was continuing its policy of providing workers, and unemployed workers in particular, with vocational and technical training and to that end had increased its support for the National Service for Occupational Advancement. With regard to wages, a 10 per cent increase in the minimum wage, retroactive to 1 April 1996, had been decreed in the light of the cost-of-living statistics. The increase was applicable only to persons currently earning the minimum wage established by the Government in accordance with the procedures laid down in the Labour Code. Minimum wage scales had also been established for rural workers and workers in domestic service and applied throughout the country. On the question of the work of young people and children, on 15 March 1995 the Government had inaugurated a programme in connection with the rights of the child, which would bring together the governmental and non-governmental sectors concerned for the purpose of planning future coordinated action to enhance the development and welfare of young workers, particularly the most vulnerable and disadvantaged among them.

3. Regarding protection of the rights of Paraguayan migrant workers in neighbouring countries, he noted that the member countries of MercoSur were currently studying a draft agreement to regulate exchanges in that area. His Government was currently holding talks with the Government of Argentina on arrangements for the settlement of, and legal work opportunities for, Paraguayan migrant workers in that country. An agreement on frontier-dwellers had also been reached with Brazil.

4. Mr. TEXIER said that the Committee would be interested to hear whether the current minimum wage sufficed to meet the normal day-to-day needs of workers as described in paragraph 113 of the report. The figures given in the table in paragraph 120 did not show the movement of the minimum wage in relation to inflation. The information in the report on work by women and women's wages was somewhat disquieting, although the Government was perhaps to be congratulated on its honesty in admitting the discrimination still suffered by women in practice notwithstanding the instruments that existed to ensure their equality before the law. In regard to occupational safety and health, he would like to know what was being done to avoid industrial accidents, what compensation was available to workers and what penalties were imposed on employers who did not provide adequate protection.

5. Mr. ADEKUOYE said that the report included a number of statistics derived from surveys by the Directorate-General for Statistics. He could not, therefore, accept the statement in paragraph 131 that the absence of statistics concerning industrial accidents prevented measures being taken to deal with the problem of industrial accidents or evaluate the degree of success achieved. If the main reason for the lack of statistics was the fact that accidents were frequently not reported by employers, what was needed was an adequate level of supervision. He asked what was being done to ensure that the Government's industrial safety standards were being complied with.

6. Mr. CEAUSU noted that there was a considerable body of legislation in Paraguay concerning work by women, as well as specific provisions relating to non-discrimination among workers on grounds of sex. In paragraph 126 of the report, however, it was acknowledged that, notwithstanding the instruments that existed to ensure their equality, in practice women workers still suffered discrimination. The Committee would like to hear what action the Government was taking to ensure that the legislation was implemented. The chapter of the Labour Code on wages stipulated that there should be equal remuneration for work of equal value "except when higher wages are paid on the basis of seniority and merit". It was accepted in most countries that seniority could lead to higher wages, but he had difficulty in understanding "merit". The fact that women bore and brought up children might be regarded as a merit, rather than that motherhood should be offered as the main reason for women's lower status on the labour market. In its next report, the Government should tell the Committee what specific action was being taken to combat discrimination against women and what recourse was open to them in order to defend their rights in the field of work.

7. There was some useful information in the report regarding occupational health and safety. He would like further details, however, concerning the National Council for Occupational Safety and Health referred to in paragraph 133. As it was attached to the Ministry of Justice and Labour and consisted of representatives of that Ministry and the Ministry of Health and Social Welfare, as well as workers' and employers' organizations, he found it difficult to understand how it could be truly independent. He would like to know more about its role, whether there was a corps of labour inspectors for example, and what practical action was being taken to ensure that the provisions of the Constitution and the Labour Code regarding occupational safety were obeyed.

8. Mr. LOIZAGA (Paraguay) said the fact that appropriate legislation now existed to protect the rights of workers in regard to wages and occupational safety could be regarded as a major advance. He agreed that the actual implementation of the legislation was not yet perfect and that the infrastructure for supervision was lacking, but the general economic difficulties under which Paraguay laboured should be borne in mind. He would convey the Committee's concerns to his Government and the responses requested would be forthcoming. The report had been very honest regarding the absence of equal treatment for women at work. Steps were being taken to improve the situation, however, including the establishment by the Government of a National Secretariat for Women which was organizing a series of seminars and workshops to inform women of their right to equal treatment. The cultural and

historical roots of discrimination against women made it difficult to eliminate that practice but he trusted that the efforts being made would one day be triumphant.

Article 8. Trade union rights (issue 22)

9. Mr. LOIZAGA (Paraguay) explained that the Constitution of 1992, drawn up with the participation of trade unionists, fully established the right to strike, providing essential minimum services in the public sector were not affected. The trade unions' right of free assembly was also fully guaranteed. Another general strike was expected in Paraguay on 2 and 3 May. In the light of recent violent incidents, it had become necessary to safeguard workers who did not participate in strikes, since assertion of the right to strike must not entail compelling workers to strike against their will.

10. Mr. RATTRAY, referring to Jamaica's experience, agreed that for a country seeking to attain development goals, the right to strike did sometimes involve achieving a precarious balance between stability and full respect for human rights. Although Paraguay's report stated that the right to form unions was unrestricted, that appeared to be not always the case. According to paragraph 155, there must be a specific number of founding members before a union could be deemed legal. Since those numbers varied considerably between professions, he queried the basis for that apparent discrimination which seemed to restrict the constitutional right to strike. Although the report claimed that "legal" strikes would not give rise to penalties or cause a contract to be terminated, were the participants in "illegal" strikes subject to criminal proceedings? He asked what judicial mechanisms determined the legality of strikes and requested specific details of strikes judged to be illegal and the number and nature of penalties or criminal proceedings brought against workers involved in strike action.

11. Ms. TAYA cited a report by UNICEF claiming that 72 per cent of women workers in Paraguay earned less than the legal minimum wage. A United States report referred to substantiated cases of abuse of national service obligations in 1993 and suggested that the prohibition of forced labour was not observed. One non-governmental organization (NGO) reported the dismissal of strike instigators with no judicial proceedings. She questioned whether poor workers' rights were being properly defended in practice by judicial bodies despite the admirable legislation on paper, and asked what steps the Government of Paraguay was taking to strengthen the independence of the judiciary.

12. Mr. THAPALIA asked whether teachers, doctors and engineers all had an equal right to hold meetings and strike, as should be the norm in a democratic system.

13. Mr. TEXIER wondered why in article 316 of the Labour Code "occupation of places of work" was considered illegal. That was surely the prerequisite for any strike, which constituted the ultimate recourse in the absence of conciliation. He agreed with Mr. Rattray that the right to strike in Paraguay seemed threatened. The very purpose of a strike in the public or private sectors was to exert pressure; that fact alone could not constitute adequate grounds for declaring a strike illegal. France had been paralysed recently

during a public transport strike, which had, however, been deemed legal. The thorny question remained as to whether minimum services should be ensured during strikes. Truly objective criteria for determining the legality of strikes were needed. Who determined the criteria in Paraguay and what legal provisions existed?

14. Mr. LOIZAGA (Paraguay) apologized for his unfamiliarity with labour issues, but pointed out that the provisions in the Labour Code for determining the legality of a strike had been drawn up on the basis of negotiations with Paraguay's main trade unions. As stipulated in the Code, a strike could be declared illegal and subsequently referred to a court if it was not commensurate with its recognized aims. During Paraguay's brief period of democracy, the right to strike had been fully guaranteed and exercised, and the Government had not taken any repressive action in that connection. A conciliation panel was currently seeking a solution to the impending strike threatening the business sector. His Government had always tried to exercise its powers of persuasion to avert strikes, which had mainly concerned the minimum wage. The Labour Code stipulated that any decision regarding the minimum wage should be corroborated by statistical data; however the latter were often interpreted differently by trade unions and the Government.

15. With regard to freedom of association, the Constitution clearly stated that all private and public-sector workers, with the exception of the police and armed forces, were permitted to hold meetings without prior authorization. The Constitution also ensured that trade unions could not be disbanded or repressive action taken against them for encouraging workers to strike in defence of their interests. Over the past seven years, hundreds of trade union organizations had been entered in the labour register, representing a fivefold increase over the period 1969-1989. If public-sector workers demonstrated within the legitimate framework of their labour claims, that was not viewed as coercive pressure on the Government. Often, however, those involved in strikes made excessive claims over and above the issue in question.

16. The views expressed in the reports cited by Ms. Taya were shared neither by his Government nor by its citizens. In 1994, an independent judiciary had been set up under the aegis of the National Council of the Magistrature, the body responsible for electing judges and magistrates, whose appointment would be approved by Parliament.

17. In only five years of transition towards democracy following a long dictatorship which had ignored political and civil rights, Paraguay could not be expected to progress as rapidly as other countries, despite its commitment to safeguarding those rights. The right to strike action had in the main been respected. All too often, however, as in other countries, strikes became overly politicized. A committee established under the Constitution to ensure that strikes remained peaceful now safeguarded the important right of non-participants in strikes to travel freely to their place of work. Various judicial bodies, independent of the executive, served as the impartial arbitrators of labour disputes.

Article 9. Right to social security (issues 23-25)

18. Mr. LOIZAGA (Paraguay) reaffirmed the statement in the report that there was no unemployment insurance in Paraguay. Social security nevertheless covered work-related accidents. No assistance was currently available to older persons without a pension. The social security system was, however, being revised with a view to combining it with a system of private insurance to provide greater coverage for workers. Further details had been supplied in the report and his delegation could supplement them if necessary.

19. Mrs. JIMENEZ BUTRAGUEÑO expressed concern at the lack of unemployment insurance and asked what recourse was available to people who were unemployed through no fault of their own. In the absence of social security, how were they to obtain food or provide for their children if they missed work through sickness? She assumed help must be provided at the local or family level. What rights were actually enjoyed by older persons in Paraguay? Additional details about the situation of older persons and single mothers, and the percentage of older persons in receipt of a pension, would be welcome.

20. Mr. LOIZAGA (Paraguay) apologized for his inability to offer the Committee more precise information. Although there was no unemployment insurance of the kind existing in Switzerland or the United States, female workers did have access to social security to cover childbirth. His delegation could supply additional statistical data in due course.

21. Mr. CEAUSU queried apparent discrepancies in paragraph 200 of the report. The figure for the protected population did not tally with the number of those presumably paying a monthly social-security contribution. Were only active contributors covered for sickness and occupational diseases or accidents?

22. Mrs. JIMENEZ BUTRAGUEÑO, referring to the same paragraph, asked why only 512,945 people were described as being economically active when Paraguay's total population exceeded 4 million. Did the statistics only refer to workers employed in a formal capacity?

23. Mr. LOIZAGA (Paraguay) agreed that there did seem to be some discrepancy and promised to look into the matter.

Article 10. Protection of the family, mothers and children (issues 26 and 27)

24. Mr. LOIZAGA (Paraguay) said that Parliament was currently considering a new Penal Code to characterize violence against mothers and violence within the family as offences and establish appropriate penalties. The National Secretariat for Women was currently conducting a campaign to encourage the reporting of violence and increase public awareness about that deeply-rooted problem.

25. Street children constituted one of the Government's priorities and a project had been initiated with the cooperation of the National Social Welfare Institute and NGOs working directly with such children in order to provide them with training and temporary accommodation. Four or five months previously, the First Ladies of Latin America had met in Paraguay and street children had been at the top of their agenda.

26. His delegation would be pleased to provide additional information and answers to questions in a supplementary report.

27. Mrs. JIMENEZ BUTRAGUEÑO observed that the needs of street children, and also of the related group of children mistreated by their families, could be served by correlating them with the needs of those desiring to adopt children. She asked whether the Government had an adoption policy, whether it facilitated the adoption of abandoned children and whether the same facilities were extended to foreign as to Paraguayan couples.

28. Mr. ADEKUOYE asked for more information on the adoption provisions under the Juvenile Code (para. 229 of the report) and whether they had actually been put into effect. Street children posed a serious community problem in many countries, including Nigeria. The strategies outlined in the report (paras. 225-228) to improve their lives were impressive. However, since so many of the children spent so many hours working in the streets - some of them at the scandalously young age of four - it was not clear when they would be able to find time for the courses and training programmes that were to be their way out.

29. Mrs. AHODIKPE asked whether violations against women under article 10 had ever actually been punished by the courts.

30. The CHAIRPERSON, speaking in a personal capacity, asked how the assertion in the core document (HRI/CORE/1/Add.24, paras. 62-64) that 95 per cent of Paraguayan women were Catholic and that Catholicism was a powerful force in the country could be reconciled with the statement in the report (para. 208) that in Paraguay the family was mostly based on the concept of "cohabitation" as the de facto union between a man and a woman, the conditions of which were established by law. If purely religious marriages had no legal force in Paraguay, that might perhaps explain some of the contradiction. Yet since de facto unions, so frequently unstable, accounted for a large proportion of abandoned children, more information was needed on what steps the Government was taking to address the problem. It was also not clear whether there was any divorce in Paraguay and, if so, whether men and women had an equal right to petition for divorce.

31. Mr. RATTRAY asked whether there was any legal right to alimony or family support once a de facto union ceased to exist, noting that apparently Paraguayan law recognized the hereditary effects of such unions and made provision for the disposition of property (paras. 208 and 209 of the report); whether, in both de facto unions and solemnized marriages, a women was entitled to paid maternity leave; and whether children could "divorce" their parents in Paraguay.

32. Mr. CEAUSU said that the report (para. 221) gave some indication of laws governing child labour in Paraguay and mentioned some forms of protection, but offered too descriptive an account (paras. 232-241) of the situation of working children without explaining the relevant social forces and perhaps government attitudes that drove them to work in such numbers. The legal provision that juveniles between the ages of 12 and 18 required authorization

to work might, in fact, actually encourage employers to circumvent the law by hiring children without contracts; and there seemed to be only an indirect prohibition on child labour below the age of 12.

33. As to street children, the Committee's prime concern was with children actually living in the streets without any shelter, rather than simply with children working in the streets, as the report seemed to interpret the term.

34. Mr. TEXIER said that he would like to know, regardless of the type of union involved, whether men, women and children in a family had equal rights in general and equal patrimonial rights; whether children born out of wedlock had equal rights; whether there was equality in divorce; and what laws governed custody and hence the impact of divorce on children.

35. Mr. AHMED observed that, judging from reports of United Nations agencies, the problem of street children was a direct product of the high incidence of broken families in Paraguay. For instance, according to figures given in two recent UNICEF reports, 98 per cent of street children in Asunción did not live in the streets but at home; 76 per cent of them lived in broken homes, and 65 per cent of those lived in homes headed by single mothers, who had simply been abandoned by the men with whom they had cohabited and had to fend for themselves. He would appreciate an explanation of why the Government had not established a working alimony system, obliging men to take responsibility for any children they had fathered. A long-term campaign was needed to remedy the situation; that required action by the Government, the social-service agencies and the Church.

36. Mrs. JIMENEZ BUTRAGUEÑO observed that underlying the deterioration of the family was the equally basic problem of poverty.

37. The CHAIRPERSON, speaking in a personal capacity, drew attention to paragraph 44 of the core document, which stated that 81.9 per cent of heads of household were men. That figure appeared to be at variance with figures in other reports, and he would welcome an explanation.

38. Mr. CEAUSU said that perhaps the discrepancy could be explained by the fact that no figures had been given to make it clear how many people in Paraguay were legally married or living in de facto unions that had subsequently been legalized, and how many were living in consensual unions.

39. Mr. LOIZAGA (Paraguay) said that the family was the nucleus of society in Paraguay. He totally disagreed with what was stated in the report about the prevalence of cohabitation. The Paraguayan people were eminently Catholic and women had a privileged position in the family. Perhaps the percentages given in the report on consensual unions had resulted from a misreading of certain surveys by a government agency. It was true that in rural areas such unions were common, but recent legislation had greatly facilitated their legalization, and the Catholic Church had also worked intensively to regularize them. Broken families were not unique to Paraguay.

40. Paraguay had laws governing both adoption and fosterage. The latter system had led to certain abuses, and there were now more stringent provisions governing the whole process of adoption.

41. Divorce had existed in Paraguay since October 1991, with absolutely equal rights for men and women. Children, however, could not divorce their parents, although the rights of children after divorce were fully guaranteed by law. Women could by law demand child support ranging from 20 to 30 per cent of the former husband's salary per child.

42. Regarding the employment of minors under the age of 12, the law stated clearly that no work contract could be made with children younger than 12; consequently, whatever the law did not permit was directly prohibited. It must be noted, however, that many children worked informally on family projects, even at a very young age.

43. The problem of street children was common to all Latin America and was the direct result of the low economic level throughout the continent. His Government was aware of it and was searching for the best palliatives. It was making efforts, for instance, to find employment for the parents, especially in the capital.

44. Mr. KOUZNETSOV said he found himself in a difficult situation now that the representative of Paraguay had expressed certain doubts about his country's report. It was, after all, a government report in which one would expect to find reliable data; he would be grateful if any discrepancies could be clarified.

45. Mr. WIMER ZAMBRANO said it was very difficult to judge a report which seemed to contain so many inaccuracies; it might be useful if the delegation of Paraguay were to go through it and explain to the Committee which parts were accurate. Also there seemed to have been a misunderstanding about children requesting divorce from their parents; the reference had been to children asking to be withdrawn from a family in which they were being ill-treated.

46. Mr. CEAUSU said that his question had concerned the number of de facto unions - people living together without being married.

47. Mr. LOIZAGA (Paraguay) said that at no point had he questioned his Government's report; he had merely been expressing doubts - possibly connected with translation difficulties - regarding the percentage of women who were in effect heads of families because of the absence of their menfolk. There was a high percentage of single mothers in Paraguay. Paraguay had a law enabling children, or their relatives or neighbours, to request the authorities to remove them from their families if they were being badly treated, and take them into safe keeping.

48. Mr. TEXIER said that in view of the fact that men and women had an equal right to raise a family and freely consented to bring up their children, it was high time that use of the term "head of the family" was abandoned.

Article 11. Right to an adequate standard of living (issues 28-31)

49. Mr. LOIZAGA (Paraguay) said that his country had legislation to protect the environment and ecological rights. A Paraguayan NGO working in conjunction with the relevant ministry had succeeded in creating greater

awareness of the need to preserve the environment, especially in the most densely-populated areas and in the many wide open spaces in Paraguay.

50. With the aim of reducing the housing shortage, a National Housing Council (CONAVI) had been established to facilitate the construction of low-cost housing; there was also a system of deferred payment. The Government had already implemented a number of projects, and in time the programme would become more intensive. Eventually, the idea would be that home-owners could increase the size of their dwellings as their families grew.

51. His Government had done much to improve sanitation facilities in urban and rural areas, and it had been a major government undertaking to provide safe drinking-water, although it would be some time before all rural areas were supplied with safe water. There were a number of electrification projects designed to bring sanitation to all areas of the country. As for housing rents and the conditions for eviction, he would be happy to provide the Committee with more information when he had it; he was able to give an assurance that all evictions must be undertaken within the law.

52. Mrs. JIMENEZ BUTRAGUEÑO asked what had been done to reform the land-ownership system in Paraguay, and what remained to be done. Specifically, she wished to know what had been done to protect the properties of indigenous peoples, and how the Government of Paraguay was coping with uncultivated latifundios.

53. Mr. MARCHAN ROMERO asked, in connection with the reference in the report to the minimum wage and the standard of living, for clarification regarding the exchange rate of the Paraguayan currency (guaraní) and the average everyday expenditure incurred by families. The report referred to Paraguay being divided into urban and rural zones for the purpose of determining a minimum wage, and he wondered what the Government's experience had been in operating such a system. The obvious concern was that a higher minimum wage in urban zones might cause a serious rural exodus.

54. Mr. TEXIER said that, according to the report, the Paraguayan Constitution provided that all inhabitants of the Republic should be entitled to a decent home, yet the housing indicators for 1992, also set out in the report, showed a housing shortage, with a 300,000-unit backlog and a high percentage of housing units with no basic sanitation, drinking water or electricity. He asked what plans the National Housing Council had for providing low-cost housing. He also asked about the Paraguayan Government's policy towards areas of settlement of the kind that often grew up outside Latin American cities and soon became as big as the cities themselves. Did the Paraguayan Government have a plan to provide those settlements with basic amenities and even property titles? He also sought information regarding any plans for State assistance to people wishing to improve their housing. He asked what was being done to provide indigenous people with land, to settle their claims and to satisfy their demands. As for the body set up to deal with their affairs, the Indigenous Institute, he requested information regarding its medium-term plan and the size of its budget.

55. Mr. LOIZAGA (Paraguay) said he would provide more details at a later stage regarding latifundism, but the agrarian reform programme, which aimed to recultivate vast tracts of uncultivated land, was being undertaken within a legal framework, as was the programme of expropriation.

56. The minimum wage was now 25 per cent higher than the figure given in the report, the current figure including a 10 per cent increase decreed by the Government but not yet accepted by the trade unions. The exchange rate was 2,000 guaraníes to the United States dollar, so the current minimum wage was equivalent to approximately US$ 230 per month.

57. There was a very severe, although not recent, housing shortage in Paraguay. Some housing projects had been successful, but others had been less so because the potential beneficiaries had not wished to move. The National Housing Council was implementing a system of self-help. All new urban settlements were based on private property, and the majority of the lots were located on the outskirts of cities. The National Housing Council project was intended to help people to build on their own land. There were 17 ethnic groups in Paraguay, and indigenous people represented a small percentage of the total population, but the Indigenous Institute was seeking settlements for them and trying to encourage them to live where they wished. His delegation would provide more details later in writing.

Article 12. Right to physical and mental health (issues 32 and 33)

58. Mr. LOIZAGA (Paraguay) said that the Ministry of Health had for the past three years occupied second place in terms of the country's overall budget; it was working with the Pan-American Health Organization to reduce the rate of maternal mortality, which was particularly high in rural areas. Because of the scarcity of clinics, only 25 per cent of pregnant women were receiving early health-care services. There was a special branch within the Ministry of Health to deal with women infected with the AIDS virus. Paraguay, which played its part in the Joint United Nations Programme on AIDS, was undertaking a project to disseminate information among the general public, and particularly in schools and colleges. There were only 200 AIDS cases in Paraguay. The main areas covered by the project were the capital, Asunción, and the border areas. His delegation would provide more information at a later stage in writing.

59. The CHAIRPERSON asked about Paraguay's experience in AIDS prevention. Paraguay was a mainly Catholic country, and he wondered what the Government's policy was regarding condom use.

60. Mr. LOIZAGA (Paraguay) said that although the Church had always counselled natural methods of birth control, NGOs had distributed condoms for demonstration purposes in secondary schools.

61. Mrs. JIMENEZ BUTRAGUEÑO asked what family-planning services were available, and whether people could get advice on methods of contraception.

62. Mr. LOIZAGA (Paraguay) said that both the Ministry of Health and health clinics themselves had family-planning units, and there was a project which

targeted rural women with a view to educating them on family-planning options and their rights. Some NGOs were working with the Ministry in the area of family planning.

63. Mr. ADEKUOYE asked for details regarding the Ministry of Health programmes to reduce the rate of maternal mortality and morbidity, and when they had been launched. Had they achieved a reduction?

64. Mr. LOIZAGA (Paraguay) said he would find out and inform the Committee as soon as possible.

The meeting rose at 6.05 p.m.

**UNITED NATIONS**

**E**

**Economic and Social Council**

Distr.
GENERAL

E/C.12/1996/SR.3
29 May 1996

ENGLISH
Original: FRENCH

COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Fourteenth session

SUMMARY RECORD OF THE 3rd MEETING

Held at the Palais des Nations, Geneva,
on Wednesday, 1 May 1996, at 10 a.m.

Chairperson: Mr. ALSTON

later: Mr. GRISSA

CONTENTS

STATEMENT BY THE HIGH COMMISSIONER FOR HUMAN RIGHTS

CONSIDERATION OF REPORTS:

(a) REPORTS SUBMITTED BY STATES PARTIES IN ACCORDANCE WITH ARTICLES 16 AND 17 OF THE COVENANT (continued)

Third periodic report of Spain

This record is subject to correction.

Corrections should be submitted in one of the working languages. They should be set forth in a memorandum and also incorporated in a copy of the record. They should be sent within one week of the date of this document to the Official Records Editing Section, room E.4108, Palais des Nations, Geneva.

Any corrections to the records of the public meetings of the Committee at this session will be consolidated in a single corrigendum, to be issued shortly after the end of the session.

GE.96-16017 (E)

The meeting was called to order at 10.25 a.m.

STATEMENT BY THE HIGH COMMISSIONER FOR HUMAN RIGHTS

1. Mr. AYALA LASSO (High Commissioner for Human Rights) said that the Committee's contribution to the Expert Group Meeting on the right to adequate housing, in which the Committee Chairperson, Mr. Alston, had played an active part, had been of crucial importance for reaffirming the right to adequate housing as a human right. Mr. Alston would certainly provide the Committee with more information on the results of that meeting.

2. In accordance with General Assembly resolution 48/141, he was mandated to promote and protect the realization of all human rights, including the right to development. Within the restructuring process currently under way at the Centre for Human Rights, the right to development would be given prominence. In its resolution 1996/15 on the right to development, the Commission on Human Rights had invited the relevant treaty bodies to consider examining, within the scope of their mandate, the proper means for their contribution to the implementation of that right. He accordingly invited the Committee to continue its discussion on the subject with a view to further elaborating on its earlier suggestions and to make concrete recommendations to the Commission.

3. Regarding the restructuring of the programme of work and the organization of the Centre for Human Rights, the process had led to the elaboration of a Change Plan which contained projects for reorganization and refocusing in five areas: managing finances; managing human resources; managing information; managing relations with other partners; and restructuring the Centre. The implementation of those five projects was under way. On the recommendation of the General Assembly, one of the new units set up in the Centre was responsible, among other things, for the right to development.

4. Referring to the Organization's financial crisis, he said that the series of cuts had brought the Centre's annual budget down to about $22 million a year, and that would inevitably mean a major decrease in the number of posts and consequently other expenses; that would greatly complicate his task, as well as that of the Committee. He would continue to make every effort to ensure the promotion and protection of human rights, in close collaboration with the Committee.

5. The CHAIRPERSON reiterated the request by Committee members to have the services of a specialist in economic, social and cultural rights. That request had been granted several years earlier, but, in view of the budgetary restrictions, the established post had not been filled. Even though the scope of the right to development was not the same as the scope of economic and social rights, they were all complementary and the assistance of a specialist would be of great value to the Committee. He reiterated to the High Commissioner the Committee's desire to have an office to work in during the sessions of the Committee.

6. Mr. AYALA LASSO (High Commissioner for Human Rights) said that he fully shared the Chairman's views; current difficulties certainly prevented Committee members from working as dynamically as they might wish. He would

like to make several experts available to them, but restrictions were such that, for the time being, that was impossible. He hoped that it would be possible to meet their request in the future.

CONSIDERATION OF REPORTS:

(a) REPORTS SUBMITTED BY STATES PARTIES IN ACCORDANCE WITH ARTICLES 16 AND 17 OF THE COVENANT (agenda item 4) (continued)

Third periodic report of Spain (E/1994/104/Add.5; HRI/CORE/1/Add.2/Rev.2; E/C.12/1995/LQ.2/Rev.1; M/HR/95/169)

7. At the invitation of the Chairperson, the members of the Spanish delegation took places at the Committee table.

8. Mr. NUÑEZ (Spain) said that, since Spain's submission to the Committee of its second periodic report, much progress had been made in the promotion and protection of economic, social and cultural rights. The Spanish Constitution called for equality before the law without discrimination of any kind as to birth, race, sex, religion, opinion or any other personal or social situation or circumstance and set forth the duty to promote conditions conducive to the exercise of freedom and the establishment of equality of individuals and groups. Various initiatives had been taken by the Spanish Government to that end.

9. With regard to the promotion of equality between men and women, for example, the new 1995 Workers' Statute Act embodied the principle of equal remuneration for work of equal value, which was a step forward in action to combat wage discrimination. As to the protection of mothers, the 1995 Act on the prevention of industrial accidents called for occupational safety and health measures for pregnant women, new mothers and nursing mothers. Act No. 42/1994 on fiscal and administrative measures and social protection made a distinction between maternity leave, which was paid at a rate of 100 per cent and the former temporary disability leave. The Workers' Statute Act extended parental leave to three years without pay, during which time the parent concerned could return to his or her job. It further declared null and void any dismissal owing to one of the causes of discrimination which were prohibited under the Constitution or the law or which violated fundamental rights and freedoms. Lastly, the new Criminal Code of 23 November 1995 defined sexual harassment and violence within the family as offences.

10. Turning to the protection of the economic and social rights of foreigners in Spain, he listed the numerous steps taken by his country with the adoption on 2 December 1994 of a Plan for the Social Integration of Immigrants. In addition, under the new Criminal Code, racist or xenophobic motives were now considered as aggravating circumstances, while trafficking in foreign labour was also an offence. The new implementing Regulation of Organization Act No. 7/85 facilitated the issuance of residence permits to foreigners for a longer period of time, as well as family reunification, and updated and simplified the administrative provisions on immigration. There was a new permanent residence and work permit issued to foreigners who could prove they had resided in Spain for at least five or six years.

11. The imposition of harsher penalties for undocumented labour marked a step forward in action to combat the illegal use of foreign labour. The creation, which had been decided in 1995, of an advisory body on the social integration of immigrants in which the Spanish Government and immigrants would be represented through their associations and non-governmental organizations (NGOs) was another important step.

12. At the administrative level, the establishment of a quota system to rationalize migratory flows into Spain should be cited, enabling immigrants to be legalized. It would permit some 38,000 immigrants to regularize their situation. Another step forward was the creation of an information, guidance and legal aid network for immigrants.

13. Cooperation with employers allowed the Government to monitor the labour, housing, education and health conditions of seasonal workers. He drew attention to the housing renewal, relocation and preventive health programmes for immigrant-occupied housing, particularly when housing was a part of remuneration, as was the case for seasonal farm workers.

14. As to culture, the Spanish Constitution granted ample competence to both the State and the Autonomous Communities. The State had exclusive competence in the area of intellectual property and protection of the national heritage. Cultural action was organized around four major axes: analysis and diagnosis of contemporary Spanish culture; cooperation among cultural institutions; taking the economic dimension of culture into account; and developing a human factor (training creators and protecting the economic and ethical rights deriving from intellectual property). A "map" of cultural needs had been prepared, which was intended to help improve cultural infrastructure during the coming 10 years and to ensure cultural decentralization. Various joint commissions of representatives of the Ministry of Culture and the Autonomous Communities were encouraging inter-institutional cooperation. The role of civil society in cultural life had been strengthened by the adoption of the so-called patronage law. As regarded the role of culture in the economy and development, the Ministry of Culture had just published two studies, entitled, "Culture in figures" and "Culture and development". In the field of intellectual property, a royal decree approving the revised text of the law on intellectual property had been issued on 22 April. Spain had just begun in-depth consideration of the cultural, technical, legal and ethical implications of the "information super-highway".

15. Turning to issues of employment, he said that the situation in Spain was characterized at present by a low activity rate, the end of migratory flows, the transformation of the structure of production and a relatively late "baby boom", compared to the rest of Europe. It was in that context that the two major labour-related reforms should be placed, one in 1984, to allow for easier access to the labour market, and the other in 1994, to improve labour relations (job mobility, collective bargaining). In addition to the policy of relaxing the conditions of employment, steps had been taken to encourage job creation, improve the effectiveness of recruitment and placement agencies and strengthen vocational training of both the unemployed and the employed. The unemployment rate was still very high and action to combat unemployment was therefore a priority, as much for the Spanish Government as for all the Governments of the European Union. The measures taken over the past few years were nevertheless a step in the right direction. For example, the female activity rate had risen from 25 to 35 per cent of the total.

16. Regarding conditions of work (art. 7 of the Covenant), the basic norms were still contained in the Workers' Statute Act, which had been substantially revised in 1994. The revision favoured the development of collective bargaining and the introduction of some flexibility in labour relations. In the spirit of article 8 of the Covenant, the 1978 Spanish Constitution assigned a major role to trade unions and employers' organizations. The constitutional principles had been specifically stated in Organization Act No. 11/1985 of 2 August 1985 on trade union freedoms, Act No. 19/1977 of 1 April 1977 on the regulation of trade union freedom of association and Royal Decree No. 17/1977 of 4 March 1977 on labour relations, which regulated the right to strike. Quite recently, on 8 January 1996, an important Act on the transfer of trade union property had been adopted.

17. The Spanish social security system continued to change and be modernized. Act No. 26/1990 had given needy persons the right to a non-contributory retirement and disability pension and had extended eligibility for family allowances. It should be pointed out that, since 1986 - that was to say, in nine years - social security expenditures had risen by 172 per cent and currently accounted for almost 10 per cent of gross domestic product (GDP). On 6 April 1995, Parliament had adopted the Toledo Agreement on the future of the welfare State and on social protection in Spain. To understand the importance of that issue, it should be recalled that the number of retirees had increased by 25.8 per cent between 1986 and 1995.

18. Concerning the right to health, he was sorry that it had not been possible to get the relevant report to the Committee on time. To make up for that, he wished to discuss four sets of measures that had been adopted on health since the submission of the second periodic report. They related to the extension of State medical coverage to 98.5 per cent of the population (including, in particular, coverage by the national health system for persons without resources who had not previously been recipients of social security); the incorporation of all State medical services into a national system (based on a comprehensive concept of promotion, prevention and rehabilitation aimed at setting up a vast network of health centres throughout the country); a substantial decentralization of the national health system for the benefit of the Autonomous Communities; and the redefinition of the benefits allowed by the national health system, several of which were new. National health policy was defined in the 1986 General Health Act, by which, among other things, the Spanish Government adopted the primary health-care objectives of the World Health Organization and its Health-for-All programme. That Act prescribed the right of all citizens and all foreigners residing in Spain to benefit from the Spanish health system. Furthermore, the emphasis was placed on preventive medicine and health education. Infant mortality continued to decline, dropping by 20.2 per cent between 1985 and 1992. The health-related laws adopted since 1985 included the 1990 Medicaments Act, the 1995 Act on the prevention of industrial accidents and a royal decree recognizing the right freely to choose a general practitioner and medical specialists.

19. With regard to education, the Spanish education system had undergone far-reaching changes in recent years. The number of students had increased dramatically and, owing to decentralization, the education system was currently very diverse and differentiated. A few statistics would suffice to show how much the sector had changed. Public expenditures on education in 1994 had accounted for 9.24 per cent of the State budget, as opposed to

11. The imposition of harsher penalties for undocumented labour marked a step forward in action to combat the illegal use of foreign labour. The creation, which had been decided in 1995, of an advisory body on the social integration of immigrants in which the Spanish Government and immigrants would be represented through their associations and non-governmental organizations (NGOs) was another important step.

12. At the administrative level, the establishment of a quota system to rationalize migratory flows into Spain should be cited, enabling immigrants to be legalized. It would permit some 38,000 immigrants to regularize their situation. Another step forward was the creation of an information, guidance and legal aid network for immigrants.

13. Cooperation with employers allowed the Government to monitor the labour, housing, education and health conditions of seasonal workers. He drew attention to the housing renewal, relocation and preventive health programmes for immigrant-occupied housing, particularly when housing was a part of remuneration, as was the case for seasonal farm workers.

14. As to culture, the Spanish Constitution granted ample competence to both the State and the Autonomous Communities. The State had exclusive competence in the area of intellectual property and protection of the national heritage. Cultural action was organized around four major axes: analysis and diagnosis of contemporary Spanish culture; cooperation among cultural institutions; taking the economic dimension of culture into account; and developing a human factor (training creators and protecting the economic and ethical rights deriving from intellectual property). A "map" of cultural needs had been prepared, which was intended to help improve cultural infrastructure during the coming 10 years and to ensure cultural decentralization. Various joint commissions of representatives of the Ministry of Culture and the Autonomous Communities were encouraging inter-institutional cooperation. The role of civil society in cultural life had been strengthened by the adoption of the so-called patronage law. As regarded the role of culture in the economy and development, the Ministry of Culture had just published two studies, entitled, "Culture in figures" and "Culture and development". In the field of intellectual property, a royal decree approving the revised text of the law on intellectual property had been issued on 22 April. Spain had just begun in-depth consideration of the cultural, technical, legal and ethical implications of the "information super-highway".

15. Turning to issues of employment, he said that the situation in Spain was characterized at present by a low activity rate, the end of migratory flows, the transformation of the structure of production and a relatively late "baby boom", compared to the rest of Europe. It was in that context that the two major labour-related reforms should be placed, one in 1984, to allow for easier access to the labour market, and the other in 1994, to improve labour relations (job mobility, collective bargaining). In addition to the policy of relaxing the conditions of employment, steps had been taken to encourage job creation, improve the effectiveness of recruitment and placement agencies and strengthen vocational training of both the unemployed and the employed. The unemployment rate was still very high and action to combat unemployment was therefore a priority, as much for the Spanish Government as for all the Governments of the European Union. The measures taken over the past few years were nevertheless a step in the right direction. For example, the female activity rate had risen from 25 to 35 per cent of the total.

16. Regarding conditions of work (art. 7 of the Covenant), the basic norms were still contained in the Workers' Statute Act, which had been substantially revised in 1994. The revision favoured the development of collective bargaining and the introduction of some flexibility in labour relations. In the spirit of article 8 of the Covenant, the 1978 Spanish Constitution assigned a major role to trade unions and employers' organizations. The constitutional principles had been specifically stated in Organization Act No. 11/1985 of 2 August 1985 on trade union freedoms, Act No. 19/1977 of 1 April 1977 on the regulation of trade union freedom of association and Royal Decree No. 17/1977 of 4 March 1977 on labour relations, which regulated the right to strike. Quite recently, on 8 January 1996, an important Act on the transfer of trade union property had been adopted.

17. The Spanish social security system continued to change and be modernized. Act No. 26/1990 had given needy persons the right to a non-contributory retirement and disability pension and had extended eligibility for family allowances. It should be pointed out that, since 1986 - that was to say, in nine years - social security expenditures had risen by 172 per cent and currently accounted for almost 10 per cent of gross domestic product (GDP). On 6 April 1995, Parliament had adopted the Toledo Agreement on the future of the welfare State and on social protection in Spain. To understand the importance of that issue, it should be recalled that the number of retirees had increased by 25.8 per cent between 1986 and 1995.

18. Concerning the right to health, he was sorry that it had not been possible to get the relevant report to the Committee on time. To make up for that, he wished to discuss four sets of measures that had been adopted on health since the submission of the second periodic report. They related to the extension of State medical coverage to 98.5 per cent of the population (including, in particular, coverage by the national health system for persons without resources who had not previously been recipients of social security); the incorporation of all State medical services into a national system (based on a comprehensive concept of promotion, prevention and rehabilitation aimed at setting up a vast network of health centres throughout the country); a substantial decentralization of the national health system for the benefit of the Autonomous Communities; and the redefinition of the benefits allowed by the national health system, several of which were new. National health policy was defined in the 1986 General Health Act, by which, among other things, the Spanish Government adopted the primary health-care objectives of the World Health Organization and its Health-for-All programme. That Act prescribed the right of all citizens and all foreigners residing in Spain to benefit from the Spanish health system. Furthermore, the emphasis was placed on preventive medicine and health education. Infant mortality continued to decline, dropping by 20.2 per cent between 1985 and 1992. The health-related laws adopted since 1985 included the 1990 Medicaments Act, the 1995 Act on the prevention of industrial accidents and a royal decree recognizing the right freely to choose a general practitioner and medical specialists.

19. With regard to education, the Spanish education system had undergone far-reaching changes in recent years. The number of students had increased dramatically and, owing to decentralization, the education system was currently very diverse and differentiated. A few statistics would suffice to show how much the sector had changed. Public expenditures on education in 1994 had accounted for 9.24 per cent of the State budget, as opposed to

8.16 per cent in 1985. In 1993-1994, 52.7 per cent of three-year-old children had been in school, as compared with 16.5 per cent in 1985-1986. Between 1985 and 1995, the number of students at university had almost doubled and the Government had made an enormous effort to provide scholarships. The Spanish Constitution recognized the right to education for all under equal conditions and, accordingly, the Government was taking the necessary corrective measures to guarantee the principle of equality of opportunity. In that connection, he referred to Organization Act No. 8/85 of 3 July 1985 establishing regulations concerning the right to education (designated by the acronym LODE), as well as Organization Act No. 1/90 of 3 October 1990 on the general organization of the education system (LOGSE). Among other things, that Act expanded opportunities for children's schooling, extended the period of compulsory schooling to 16 years and made important changes in the field of specialized education.

20. Royal Decree No. 696/95 of 28 April 1995, concerning the education of students with special educational needs, reaffirmed the principles of schooling and called for extending the schooling of disabled children, the allocation of 3 per cent of university places to disabled students, special measures for gifted children and new vocational training for the disabled. Royal Decree No. 229/96 of 28 February 1996, on action to compensate for inequalities in the field of education, was also an important step forward. It called for measures to compensate for the disadvantages from which particular groups might suffer. Gypsies, immigrants and the children of itinerant and seasonal workers, as well as all those who could not attend school regularly for health reasons. The Decree also called for instruction in the language and culture of the country of origin and the host country. Organization Act No. 9/95, on participation in and the evaluation and management of educational centres, had been promulgated on 20 November 1995. The development of the education system was, of course, based on socio-cultural diversity, which, to a large extent, came from the many immigrants and asylum-seekers in Spain. The authorities were, naturally, particularly attentive to preventing and solving the problems of exclusion and xenophobia and the schooling difficulties from which persons in difficult economic, family and cultural circumstances were the first to suffer. That having been said, socio-cultural plurality was also a source of diversity for schools.

21. With regard to the right to religious freedom, the Spanish Parliament in 1992 had adopted acts endorsing the conclusion of cooperation agreements between the State and the evangelical, Jewish and Islamic religious authorities of Spain. The Spanish Government recognized religious freedom as both an individual and a collective right.

22. He hoped that he had covered the most important steps taken in Spain since the preparation of the third periodic report. He was, of course, at the Committee's disposal for further information.

23. Mr. Grissa took the Chair.

24. The CHAIRPERSON thanked the representative of Spain for his comprehensive presentation and invited Committee members to comment or ask questions on the general presentation of the third periodic report.

25. Mr. ALVAREZ VITA thanked the representative of Spain and praised the number and quality of members of the Spanish delegation. He wished to know why the part of the report concerning the right to health had not reached the members of the Committee.

26. Mr. NUÑEZ (Spain) said that that part of the report had simply not been ready in time. If the Committee members so wished, he would send it to them shortly.

27. Mr. TIKHONOV (Secretary of the Committee) said that the replies of the Spanish Government to the Committee's written question were contained in two separate documents and that they started with issue No. I.2. Those replies, which had been transmitted to the Committee, had been translated into English.

28. Mr. TEXIER thanked the delegation for the abundant information it had provided and welcomed the fact that it was composed of more technical experts than diplomats.

29. Mr. Alston resumed the Chair.

30. Mr. NUÑEZ (Spain) said that the Spanish Government had already replied in detail to the list of issues (E/C.12/1995/LQ.2/Rev.1) relating to articles 6, 7, 8 and 9 of the Covenant in the reports it had sent to the International Labour Organization (ILO) on the implementation of several ILO Conventions. He was prepared to give the Committee more technical information during the present meeting or on the next day.

31. Mr. TEXIER said that, according to the Committee's guidelines, if a country under consideration had communicated information of interest to the Committee to another organization - in the present case, the ILO - it could refer to that fact. However, having reported to another organization did not exempt the country whose report was under consideration from replying to the Committee's question.

32. The CHAIRPERSON said that he agreed with Mr. Texier and proposed that the Committee members and the delegation should leave aside the questions relating to articles 6 and 9 and return to them the following morning. He invited the delegation to reply to the issues relating to the first five articles of the Covenant (E/C.12/1995/LQ.2/Rev.1).

33. Mr. NUÑEZ (Spain) read out the written reply of the Spanish Government to issue No. I.2 (M/HR/95/169), adding that, in recent years, the Government had taken steps to ensure that all foreigners enjoyed the same economic, social and cultural rights as Spanish citizens. The political will of the Government and the legislature was that non-Spaniards should fully enjoy the rights recognized by the Covenant, to which Spain had been a party since 1977. It was a matter of protecting foreigners residing in Spain, sometimes under difficult circumstances, from all discrimination and guaranteeing them access to education, among other things. Spain practised a policy of assimilation and integration of foreigners within an inter-cultural framework.

34. Mr. APARICIO (Spain) said that the new implementing regulations of the Organization Act on the rights and freedoms of foreigners residing in Spain

had entered into force on 23 February 1996. Any foreigner living in Spain for at least five or six years had the right to obtain a residence permit and a work permit. The required administrative procedures had been simplified.

35. The CHAIRPERSON suggested that, to save time, the delegation should provide orally only information that supplemented the written replies.

36. Mr. NUÑEZ (Spain), referring to the international assistance and cooperation provided by Spain, said that the Spanish cooperation for development policy gave priority to Hispanic countries, the Philippines, North Africa and the Middle East and to various fields: the development of democratic institutions, education, human resources development, the elimination of poverty, the advancement of women, the protection of minorities, health and the environment, culture, modernization of the means of production and infrastructures, and scientific research. Spain was trying to meet the target set by the Organization for Economic Cooperation and Development (OECD) and the United Nations, namely, that 0.7 per cent of the GDP of developed countries should be allocated to development assistance by the year 2000.

37. The 1995 budget of the Spanish agency for international cooperation was broken down in the following way: 50 per cent for Latin America; 33 per cent for the rest of the world; 6 per cent for humanitarian assistance; 3 per cent for programmes carried out jointly with other organizations; and 8 per cent for general expenses. In 1994 and 1995, Spanish cooperation for development had increased greatly and civil society was more and more aware of the need to help developing countries. The next national budget for international cooperation called for a substantial increase in non-reimbursable resources. In 1995, Spanish public assistance had amounted to more than 227 billion pesetas and was set to increase still further.

38. The CHAIRPERSON invited the members of the Committee to request additional information on the replies given to the issues relating to the first five articles of the Covenant (arts. 1 to 5).

39. Mr. MARCHAN ROMERO asked what the legal status of foreigners was prior to their obtaining the residence permit. Were they at that point illegal? If so, what fundamental rights were they entitled to? Regarding the trade union rights of foreigners, he asked whether they had the right to form foreign trade unions.

40. Mr. TEXIER said that he would like more information on the publicity given to the third periodic report of Spain in civil society. Was the report the subject of a public debate? In his country, Government reports remained confidential. Like Mr. Marchán Romero, he wondered what the legal situation of foreigners was before they were regularized. The situation in his own country was from that standpoint disastrous. The European Union seemed to be closing itself off to foreigners and changes in refugee status there were a matter of concern. The number of asylum-seekers who actually obtained refugee status was declining, under the influence of the Schengen Agreement. Where did Spain stand on those issues? Did asylum-seekers obtain a work permit right away? Did the issuance of that permit depend on obtaining refugee status?

41. Mr. CEAUSU thanked the Spanish delegation for the quality of its written replies and the additional information provided orally to the Committee. However, in the report of Spain there was a contradiction between paragraph 19 - which dealt with the implementation of article 2 and stated that, in some cases, the Constitution appeared to restrict the enjoyment of a right to Spanish nationals (arts. 35.1, 41 and 47) - and the written reply of Spain, according to which non-Spaniards enjoyed exactly the same social rights as Spaniards, such that it could be stated that Spanish legislation was consistent with the Covenant.

42. He noted with satisfaction that the third periodic report provided substantial information on certain categories of immigrants, such as migrant workers, asylum-seekers and refugees. He wondered whether the residence permit automatically entitled foreigners to enjoy economic and social rights, particularly the right to work and the social security advantages deriving therefrom.

43. Mr. RATTRAY thanked the Spanish delegation for the quality and exhaustiveness of its report. None the less, action to combat racial discrimination called not only for legislative and constitutional provisions, but also for concrete action on the cultural environment, which influenced racist behaviours. He had learned with concern of a report which had been submitted to the Foreign Relations Committee of the United States Senate in February 1994 and which referred to ill-treatment by the Spanish police of North Africans, particularly Moroccans, and Africans. A 1992 report had denounced the openly xenophobic and racist attitudes of a number of law enforcement officers towards foreigners, especially at airports and other points of entry. He asked the delegation to comment on those reports. He also asked whether any legal proceedings had been instituted and whether those responsible had been punished.

44. The CHAIRPERSON, with the agreement of the Spanish delegation, invited the members of the Committee to ask the delegation about issues relating to the implementation of article 6 of the Covenant.

45. Mr. CEAUSU said that, according to paragraph 45 of the report, several programmes had been set up for women. It would be useful to know how the programmes and projects called for under those programmes, particularly the NOW/INEM plan for the training and employment of women, were carried out. It would also be useful to know which authority was in charge of implementing the plan, how it was financed, what was required of its beneficiaries, what the scope and geographical distribution of its services were and how many beneficiaries it had.

46. With regard to persons with disabilities, he asked how many people had benefited from measures to promote their employment in accordance with Act No. 23/1988 and Royal Decree No. 1451/1983, cited in paragraphs 56 and 59 of the report. How many Special Employment Centres and Occupational Centres had been established in Spain for the disabled, in accordance with Act No. 13/1982, and how many people had benefited from the services of those centres? According to paragraph 73, the remuneration received by women was nearly 20 per cent lower than that of men for equal work of equal value. It would be interesting to know whether that wage gap existed from the start of

the career, when men and women had equal qualifications. If that were the case, it would have to be concluded that the principle of equal pay between men and women was not respected in Spain.

47. Mr. GRISSA said that Spain's entry into the European Union had resulted in far-reaching changes, including rural exodus and the growing numbers of wage earners, which had not necessarily favoured the employment of women in urban areas. The unemployment rate in Spain was abnormally high, despite the country's strong economic growth and he wondered whether the training, recycling and information provided to job seekers were suited to the new forms of economic development, currently in the midst of restructuring, and to actual job opportunities.

48. Mr. TEXIER asked what type of unemployment insurance was envisaged and what the length of unemployment benefits was. Was there a minimum wage; what percentage of the total population was so-called "marginal"; and what assistance was available for that population?

49. Mr. AHMED thanked the Spanish delegation for the quality of its report. Like Mr. Ceausu, he had noted with concern that Spanish women generally earned 20 per cent less than men for work of equal value. According to the core document (HRI/CORE/1/Add.2/Rev.2), out of a total of 283,600 single-parent families, 242,000 were headed by women and 41,600 by men. The delegation should explain the reasons for that situation. As to employment, was it causing the influx of women into the labour market and, consequently, their comparative under-remuneration? He asked whether divorce and concubinage were responsible for the high proportion of households headed by women.

50. Mr. CEAUSU said it was not surprising that most single-parent families were headed by women.

51. The CHAIRPERSON invited the members of the Committee to ask the delegation questions about the information relating to the implementation of article 10.

52. Mr. MARCHAN ROMERO said that Spain had indicated in a report to the Human Rights Committee that the Spanish Constitution recognized forms of union other than marriage. However, it had also indicated in that report that no article of the 1994 Constitution recognized the non-matrimonial union of a man and a woman. Had the situation changed in that regard? He asked for information on the legal status of children born out of wedlock. Did they have the same rights as those born in wedlock?

53. Mr. GRISSA said that, according to paragraph 92 of the report, abandoned children were protected by the State. Was that protection provided directly by the State, or indirectly through private institutions? Up to what age was that protection guaranteed?

The meeting rose at 1 p.m.

UNITED
NATIONS

E

Economic and Social
Council

Distr.
GENERAL

E/C.12/1996/SR.4
6 May 1996

Original: ENGLISH

COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Fourteenth session

SUMMARY RECORD OF THE 4th MEETING

Held at the Palais des Nations, Geneva,
on Wednesday, 1 May 1996, at 3 p.m.

Chairperson: Mr. ALVAREZ VITA

CONTENTS

CONSIDERATION OF REPORTS:

(a) REPORTS SUBMITTED BY STATES PARTIES IN ACCORDANCE WITH ARTICLES 16 AND 17 OF THE COVENANT (continued)

Initial report of Paraguay (continued)

This record is subject to correction.

Corrections should be submitted in one of the working languages. They should be set forth in a memorandum and also incorporated in a copy of the record. They should be sent within one week of the date of this document to the Official Records Editing Section, room E.4108, Palais des Nations, Geneva.

Any corrections to the records of the meetings of the Committee at this session will be consolidated in a single corrigendum, to be issued shortly after the end of the session.

GE.96-16014 (E)

The meeting was called to order at 3.05 p.m.

CONSIDERATION OF REPORTS:

(a) REPORTS SUBMITTED BY STATES PARTIES IN ACCORDANCE WITH ARTICLES 16 AND 17 OF THE COVENANT (agenda item 4) (continued)

Initial report of Paraguay (E/1990/5/Add.23; E/C.12/1995/LQ.1/Rev.1; HRI/CORE/1/Add.24) (continued)

1. At the invitation of the Chairperson, Mr. Loizaga and Mr. Ugarriza (Paraguay) took places at the Committee table.

Articles 13 and 14. Right to education (issues 34-38)

2. Mr. LOIZAGA (Paraguay) said that the universal right to education was enshrined in Paraguay's Constitution. In 1994, the share of the Ministry of Education and Worship in Paraguay's overall budget had been 18.6 per cent, and that figure had since been exceeded. A national educational reform had been instituted in 1990 and included a revision of the curriculum to make it more suitable for a pluralistic society: pupils were to be taught to understand the new political processes, and the necessary reading materials were distributed by the Government to all pupils in the first three years of primary education. As to the request to provide statistics on the numbers, by sex, enrolled in the various levels of education over the previous five years, he gave the Chairperson, for the use of members of the Committee, a copy of a document containing education statistics culled from the 1992 census; the document provided information regarding repetition of courses and drop-out rates. Efforts were being made to steer those who had abandoned their studies towards vocational training. The Government also conducted literacy programmes for adults, children and even members of the armed forces.

3. As to teachers' salaries, he said that teachers worked two of the three daily shifts - morning, afternoon and evening - and in 1989 had been paid on average the equivalent of US$ 40 per shift. Teachers' salaries were not yet high enough, and in the past two years they had gone on strike on two or three occasions in support of demands for higher pay. The Government had launched a project to improve teachers' working conditions; it intended that they should eventually work only one shift a day and have the opportunity to improve and update their skills during the other shift.

4. "Democracy" was taught as a subject and embraced human rights. Members of the armed forces and the police, who had previously been virtually compelled to violate human rights in the course of their work, now had access to human rights education programmes.

5. Turning to the provision of adult education, he said that there was an adult literacy department in the Ministry of Education and Worship. There were more than 635 adult education centres which were attended by 40,155 students and 2,227 teachers. The Ministry of Education and Worship also ran extension programmes. Courses in adult education centres were supplemented by programmes on State radio.

6. The CHAIRPERSON asked how the principle of the freedom of education operated in Paraguay and whether there was any form of favouritism, i.e. favouring Catholic education over the education provided by other religions.

7. Mrs. JIMENEZ BUTRAGUEÑO expressed surprise at the name of the Ministry, and asked why it was called the Ministry of Education and Worship. She requested more information about the content of human rights education and about the importance and impact of education on gender equality. She asked about the role of women in the police force, and whether there were women magistrates and judges.

8. Mrs. BONOAN-DANDAN said she had information which suggested that in the education budget schools in urban areas received highly favourable treatment. It was her understanding that the salaries of teachers in rural areas had not been paid on a regular basis and had had to be supplemented by contributions from parents. She therefore wondered whether primary education was really free. She also asked what education programmes and curricula were available for indigenous communities.

9. Mr. TEXIER expressed concern about the number of children of primary-school age who were shown in the report (E/1990/5/Add.23) to be already in work; he therefore wondered to what extent the compulsory nature of primary education was enforced. He asked if there were specific programmes to deal with the matter. Article 14 stipulated that States parties not able to secure compulsory primary education, free of charge, undertook, within two years, to work out and adopt a detailed plan of action for its progressive implementation within a reasonable number of years. He requested information regarding the proportion of private to public education at all levels and more information on the literacy campaigns. The report suggested that there was still a relatively high illiteracy rate in Paraguay, and he wished to know whether the problem was greater in rural areas and among women. He asked to what extent the adult literacy efforts were targeted, and whether there was a national plan.

10. Mr. RATTRAY said there seemed to be a two-tier education system in terms of quality: the repeat and drop-out rates in the public sector were markedly higher than in the private sector. He asked whether the quality of education provided in the public sector was inferior to that available in the private sector.

11. Mr. ADEKUOYE said he was also worried about the high drop-out rate in primary schools. It was his understanding that the scheme to teach the Guarani language in rural areas had not really taken root; he wanted to know how successful and widespread it was, and whether it also operated in metropolitan areas. There had been a great expansion of education in Paraguay in the past 10 years, but the quality had not really improved that much, especially in the rural areas. He wondered if that was because of discrimination in the disbursement of the education budget and in the assignment of teachers, and because of the problem of the irregular payment of teachers' salaries. He asked what was being done to create a more congenial atmosphere in the rural areas, leading to an improvement in the standard of education.

12. Mr. THAPALIA requested clear statistics regarding rates of literacy as between men and women, urban and rural inhabitants, and indigenous and non-indigenous inhabitants. The delegation had said in relation to human rights education that "democracy" was taught as a subject and included all matters relating to human rights; he wished merely to observe that although human rights and democracy were complementary, they were not the same. He asked whether the Government of Paraguay was taking steps to provide human rights education to other sectors of society as well as the armed forces, the police and prison staff.

13. Mr. AHMED congratulated the Government of Paraguay on its achievement in expanding education in the past two decades. Budgets and enrolments had increased impressively, but it was obvious to the Committee that that was not enough to meet the needs of the country. Less than 43 per cent of the population completed primary education, and of the 133,000 who had been enrolled in primary schools only 17,000 had finished secondary school in 1992. More money and effort were needed to improve education in Paraguay, and he wondered if the Government envisaged increasing the education budget over the next five years beyond 20 per cent.

14. Mr. LOIZAGA (Paraguay) said that since 1992 Catholicism had no longer been the official religion of Paraguay; there was complete freedom of religion. There was no favouritism by the State or the Church with regard to freedom of education. Discrimination was prohibited in the Constitution, and that prohibition was respected in day-to-day practice. There were small, private schools and educational institutions run by religious organizations other than the Catholic Church. As for the name of the Ministry of Education and Worship, it was for each country to decide which ministry dealt with worship: in the past in Paraguay it had been the Ministry of Foreign Affairs. Religious organizations and orders were required to adopt their own statutes.

15. Although Paraguay had not yet achieved an optimum level of gender equality and differences remained, efforts were being made to incorporate women at various levels of government, the police and the armed forces.

16. Human rights education was something that was relatively new in Paraguay; since 1989 there had been a growing interest in human rights at all levels of society, and notably in the armed forces.

17. Under the educational reform programme, rural schools were to be given priority and a number of new regional teacher-training institutions had been established. Efforts at decentralization might have led to administrative difficulties over the prompt payment of teachers in remote areas in some cases. The contributions by parents that had been referred to were quite customary and were always directed to the upkeep or improvement of school premises or sports facilities and never used to pay teachers' wages.

18. Special efforts were being made to encourage children between 12 and 14 not to drop out of school. The evening classes he had mentioned had been instituted for that purpose and remained free of charge.

19. A reference had been made to discrepancies between the results achieved in public and in private schools. The schools in rural areas were largely

public and, in the towns, public schools were often situated in the poorer districts. Children in the public schools, therefore, tended for various reasons to be less physically and mentally healthy than children attending private schools and more liable to suffer from learning disabilities. The Government was trying to deal with that problem. For example, a project had recently been set up, with international assistance, for the distribution of iodine to children in rural areas to ward off thyroid problems that could result in cretinism.

20. As to the status of Guarani, he said that Paraguay was proud to have preserved it as an official language together with Spanish. The teaching of Guarani was compulsory in both public and private schools, in town and country alike. Research was currently being carried out jointly with a United States university into the best means of providing that form of bilingual education. Guarani was studied and learned in the capital, although it was not much used in daily life there; country dwellers knew a good deal of Spanish but mainly used Guarani. "Jopará", a mixture of Spanish and Guarani, was spoken throughout the national territory.

21. The programme for the reform of education in Paraguay was definitely under way and its results would be measurable within the next three or four years. The appointment of the Educational Reform Council, which comprised government officials, non-governmental associations and teachers, had been a great step forward. A loan of US$ 20 million from the Inter-American Development Bank would be used by the Government to put the educational reform programme into effect. The teaching of human rights, which already formed part of the curriculum of the Faculty of Law of the National University, was being given increasing importance. A plan was being worked out for its introduction throughout the education system. Regarding the amount spent on education, he said that the Government had been inspired by its belief that to enable the country to move forward and to achieve an acceptable quality of life, education for all was vital. It had therefore decided to cut back in less productive areas of public expenditure and to devote 20 per cent of the budget to education.

22. The CHAIRPERSON said that the Ministry of Education's school enrolment statistics seemed to show discrimination in favour of boys. He would like more information on that point. He also asked whether private schools, which were largely Catholic, could operate entirely outside the State system and impose such special requirements on their pupils as the production of baptism certificates and proof of the religious marriage of their parents.

23. Mrs. JIMENEZ BUTRAGUEÑO noted that paragraph 209 of the report referred to the regularization of non-matrimonial unions. She asked whether children considered to have been born out of wedlock were registered as such.

24. Mr. LOIZAGA (Paraguay) said that Roman Apostolic Catholicism was firmly rooted in Paraguay and 90 per cent of the population professed that religion. There was, however, no religious discrimination and Catholic private schools could not impose the kind of requirements mentioned by the Chairperson. Special religious programmes, such as confirmation classes, could be offered, but they must not be compulsory.

25. In response to the question about indigenous education, he pointed out that information on the matter was given in the report (paras. 356 (e) and 384). Further details could be provided in writing. The registration of children as legitimate or illegitimate had ceased with the adoption of the new Civil Code.

26. The CHAIRPERSON asked whether the process of privatization under way in Paraguay included the school system. Would education continue to be free of charge?

27. Mr. LOIZAGA (Paraguay) said that efforts were being made to promote more private participation, in pre-primary and university education in particular, but the State's obligation to provide compulsory and free basic education in public schools was unchanged. Efforts were also continuing to promote free secondary and university education. There were many completely free secondary schools in the capital and in the interior, and the State University was also free of charge.

Article 15. Right to take part in cultural life and to enjoy the benefits of scientific progress and protection of the interests of authors (issues 39-42)

28. Mr. LOIZAGA (Paraguay) said that there were a number of organizations and associations in Paraguay working together to raise cultural standards. Such bodies were represented on the Educational Reform Council and had taken part in the drafting of the new national curriculum. Formerly, public education had been entirely in the hands of the State and such participation was a new departure. The Constitution provided that publications or activities that had significant value in the promotion and dissemination of culture should not be subject to taxation. Scientific and technological research was being encouraged, particularly in the fields of economics and rural development. In earlier times, there had been a tendency for cultural associations to be suspected of intent to destabilize the Government, but now groups interested in raising the country's cultural standards were encouraged.

29. The moral and material interests of the authors of scientific, literary or artistic works were protected under the Civil Code, with copyright being valid for 40 years after death. The cultural property of members of ethnic groups was protected under the provisions of the Constitution recognizing and protecting the indigenous heritage. Some of the institutions engaged in the study and protection of the habitat and culture of the various indigenous peoples were listed in the report (para. 406) and additional information would be provided in writing if required. The Ministry of Education and Worship had sponsored a number of publications on themes relating to indigenous culture and its preservation. He observed that Paraguay was a party to the Berne Convention of 1886.

30. Mr. AHMED inquired whether any newspapers or works of literature were published in Guarani and whether any restriction was imposed on cultural imports. Were satellite television dishes permitted and did the people of Paraguay receive Brazilian and Argentine television programmes?

31. Mr. CEAUSU said he realized that the Government of Paraguay had not been given a sufficiently precise indication of the information usually required by

the Committee regarding a State party's cultural infrastructure. It was perhaps too late to request statistics on the number of libraries, theatres, museums, cinemas and radio and television sets in Paraguay. He would, however, appreciate more information on Paraguayan cultural institutions and the percentage of cultural programmes in Guarani. Given the fact that 40 per cent of the population spoke only Guarani, what was being done to ensure equal access to culture?

32. Mr. TEXIER said he was also concerned about the right of everyone, including minority groups, to take part in cultural life. What was being done to preserve the people's rich artistic and musical heritage and how was the Paraguayan Cultural Institute ensuring survival of the 17 ethnic cultures which formed an intrinsic part of Paraguayan culture? The disappearance of unique civilizations was, after all, a major problem in Latin America. Although the Guarani language did not appear to be in danger of extinction, concerted action was needed to ensure that the lifestyle and customs of the various ethnic groups were safeguarded.

33. Mr. LOIZAGA (Paraguay) assured the Committee that the preservation of culture was one of the Government's main priorities. Several newspapers published extensive sections in Guarani on a daily or weekly basis, thus keeping the language alive and recording Guarani customs, myths and sayings which were so often lost in translation. Until 1947, Guarani speakers had been considered second-class citizens; now it was those who did not speak Guarani who were deemed deficient. Guarani was an inseparable part of Paraguayan culture.

34. No controls were imposed on the flow of information. Sixty to seventy per cent of the international television programmes received in Geneva were also available in Paraguay. Freedom of access was guaranteed, even if that sadly meant exposing young people to potentially corrupting material.

35. An average of 10 pages of Guarani were published each week. There were also editions of Guarani music and a long-awaited Guarani-language dictionary was now being used in all schools. A highly successful first exhibition of Guarani baroque art had recently been held in Paris with the support of the French Government

36. There were 17 ethnic groups in Paraguay, each with their own language. Guarani was often used as a lingua franca, although it was not common to all. The Government hoped to promulgate the use of indigenous languages. Indigenous customs were a part of daily life, handed down from before colonial times. Guarani reservations had been set up in the western part of the country to preserve what UNESCO called the "common heritage of mankind". The Government, with Spain's cooperation, was also encouraging the conservation of popular church art.

37. The CHAIRPERSON asked whether Paraguay was receiving any technical assistance from the Centre for Human Rights. What were Paraguay's needs regarding the promotion of economic, social and cultural rights?

38. Mr. WIMER ZAMBRANO wished to inform the Committee that UNESCO was now voting on a major project involving the publication of a series of bilingual

Guarani-Spanish specialized dictionaries. The project would also cover the indigenous languages of Central America and Mexico, and such terminology fields as building and agriculture, with a view to avoiding ambiguity and the borrowing of Spanish terms.

39. The CHAIRPERSON, speaking in a personal capacity, expressed his concern for the preservation of indigenous languages.

40. Mrs. JIMENEZ BUTRAGUEÑO asked whether special prices existed to encourage the poorer members of the population and older persons to visit cultural institutions such as libraries and museums. Considering that the older members of indigenous groups were often the best sources of information on traditions, was their knowledge being put to good use? Did retired teachers continue to contribute to the community?

41. Mr. LOIZAGA (Paraguay) said that a technical assistance project had been initiated in conjunction with the Centre for Human Rights for the purpose of formulating a comprehensive national human rights plan. The main focus was on education with a view to enhancing awareness of human rights and the democratic and pluralistic coexistence which must prevail in modern Paraguay.

42. In response to Mrs. Jimenez Butragueño's questions, he said that reading was being encouraged with the assistance of the Ministry of Education and Worship and local councils, which were upgrading public libraries, the aim being to decentralize the current system and increase local community involvement. Libraries on wheels now travelled from town to town encouraging young people to take an interest in reading and research. The experience and wisdom of older persons was being fully exploited and they were not discriminated against. It must be remembered that the population was very young, with 70 per cent below the age of 30. Young people needed to be encouraged to make a more active contribution to society.

43. Mr. AHMED asked whether a course in human rights was available in law faculties. In other countries undergoing democratic transition, courses promoting the understanding of human rights had been given to representatives of public order such as the police and the judiciary. Such courses would be particularly apt given that there had presumably been a different attitude to human rights under the dictatorial regime. He also inquired whether there were any Guarani-language radio stations. Were any Guarani songs particularly popular with the public?

44. The CHAIRPERSON said that it was important for the Committee to be told what obstacles Paraguay was experiencing in implementing the Covenant in order to establish where assistance was most needed.

45. Mr. LOIZAGA (Paraguay) admitted that the situation in his country was not perfect and that his delegation's report had, in fact, been very realistic. Such a report would not have been possible under the old regime. His delegation had nothing to hide from the Committee and hoped the report would enhance the international community's interest in Paraguay's development.

46. Replying to Mr. Ahmed, he said he was unable to inform him of the exact number of radio programmes in Guarani, but there were hundreds of stations

throughout the country, at least 80 per cent of which broadcast programmes in Guarani. Guarani music was also regularly featured. Previously, on public holidays, 50 per cent of music broadcast had had to be in Guarani, but a more liberal attitude was now being adopted. Paraguay could boast three television channels, with 15 minutes of morning news in Guarani. There were also Guarani-language channels in rural areas.

47. The obstacles to ensuring observance of rights resembled those of other developing countries. Paraguay was currently undergoing an economic recession, with increased unemployment. The social budget was necessarily limited since priority must be given to meeting basic needs. The intention of the Government was to encourage participation in cultural life by all, despite economic difficulties.

48. He referred to a week-long seminar on human rights held in his country in 1992 with the support of the Centre for Human Rights. That had been only two years after the birth of the new democracy. Generals and members of the police force and the judiciary had attended. The seminar had been the subject of a special report prepared by the University of Asunción and the Catholic University.

49. In 1989, when the democratically-elected Parliament had been convened for the first time, the American Convention on Human Rights had been ratified, as had the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights.

50. The CHAIRPERSON thanked the Paraguayan delegation and NGOs for their cooperation; the Committee looked forward to receiving further information from them on Paraguay.

51. Mr. LOIZAGA (Paraguay) said that he was glad to have been present during the examination of the report at a time when the democratic process in Paraguay was being threatened. He expressed his Government's willingness to cooperate further with the Committee.

The meeting rose at 5.05 p.m.

**UNITED NATIONS**

**E**

**Economic and Social Council**

Distr.
GENERAL

E/C.12/1996/SR.5
28 May 1996

ENGLISH
Original: FRENCH

COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Fourteenth session

SUMMARY RECORD OF THE 5th MEETING

Held at the Palais des Nations, Geneva,
on Thursday, 2 May 1996, at 10 a.m.

Chairperson: Mr. ALSTON

CONTENTS

CONSIDERATION OF REPORTS:

(a) REPORTS SUBMITTED BY STATES PARTIES IN ACCORDANCE WITH ARTICLES 16 AND 17 OF THE COVENANT (continued)

Third periodic report of Spain (continued)

This record is subject to correction.

Corrections should be submitted in one of the working languages. They should be set forth in a memorandum and also incorporated in a copy of the record. They should be sent within one week of the date of this document to the Official Records Editing Section, room E.4108, Palais des Nations, Geneva.

Any corrections to the records of the meetings of the Committee at this session will be consolidated in a single corrigendum, to be issued shortly after the end of the session.

GE.96-16066 (E)

The meeting was called to order at 10.20 a.m.

CONSIDERATION OF REPORTS:

(a) REPORTS SUBMITTED BY STATES PARTIES IN ACCORDANCE WITH ARTICLES 16 AND 17 OF THE COVENANT (agenda item 4) (continued)

Third periodic report of Spain (continued) (E/1994/104/Add.5; E/C.12/1995/LQ.5/Rev.1; written replies, document without a symbol distributed in English and Spanish by the delegation of Spain)

1. At the invitation of the Chairperson, the members of the delegation of Spain took places at the Committee table.

2. The CHAIRPERSON said that the Spanish delegation wished to present orally information on the four articles of the Covenant (7, 8, 9 and 12) which were not dealt with in the report under consideration. After hearing that presentation, the Committee would have to decide whether an oral statement on the articles not covered in the report would be sufficient.

3. Mr. GONZALEZ DE LINARES (Spain) said he realized that the Committee would not necessarily be able to accept an oral presentation in place of a written text; his delegation was in a position to provide the Committee with a written text covering articles 7, 8, 9 and 12 of the Covenant.

4. The CHAIRPERSON thanked the representative of Spain for his offer but pointed out that the text in question existed only in Spanish and could not be understood by all members of the Committee. He invited the Spanish delegation and the members of the Committee to begin by continuing their discussion of article 10 of the Covenant.

5. Mrs. BONOAN-DANDAN said she was pleased to note that Spain had a number of laws, measures or programmes on violence against women, including domestic violence, and asked for information and statistics on the implementation of those laws and programmes. She wondered whether women, including Gypsy women, were aware of those laws and invoked them when they were victims of violence, and, more generally, what problems were being encountered in implementing the laws. It would be interesting to know whether Spanish women were really benefiting from the provisions of existing legislation.

6. The CHAIRPERSON invited the Spanish delegation and the members of the Committee to consider the implementation of article 11 of the Covenant.

7. Mr. CEAUSU said that, in its written replies concerning article 11, the Spanish Government had replied only to questions 19 and 22 on the list of issues (E/C.12/1995/LQ.5/Rev.1); it had not replied to questions 20, 21 or 23.

8. Mr. NUÑEZ (Spain) said that he would respond orally to questions 20, 21 and 23. With regard to question 20 on measures taken to give real effect to the right to housing and the regulations governing eviction, the Autonomous Communities were responsible for housing policies, but it was the State which determined the general conditions for the exercise of the right to housing and, in particular, the financial conditions governing the lending system.

The procedures and goals of housing policy were contained in a plan. The housing plan for 1992-1995 had just ended. Among State intervention measures envisaged under that plan had been the granting of fixed-rate loans between lending institutions and the Ministry of Public Works, Transport and Environment, which was the ministry responsible for housing in Spain, and assistance for home buyers and tenants. During the period covered by the plan, housing assistance had been provided in 507,000 cases, which was slightly more than the number expected. State housing-related expenditure had risen from 63,000 billion pesetas in 1986 to 92,000 billion pesetas in 1993.

9. In November 1995, the new housing plan for 1996-1999 had been adopted. It emphasized stability and security in the occupation of a dwelling; for example, it had been decided that leases would have a minimum duration of five years. Evictions must conform to a precise legal procedure and were placed under the direct supervision of the courts.

10. Turning to question 22, he said that legal, customary inhabitants of a building who were evicted as a result of construction or development projects had the right to be relocated in accordance with a number of regulations. In the case of renovation of old urban districts, tenants whose apartments were to be demolished must be relocated during the period of construction and offered housing in the new building erected on the site.

11. With regard to question 23 on the steps taken by the Government to protect the most vulnerable groups in regard to their right to adequate food, he said that the Spanish social system covered virtually the entire population. The very poor were entitled to a non-contributory allowance, as had been stated at an earlier meeting. Individuals or groups not covered by the social system were assisted by the Autonomous Communities, which for the most part gave disadvantaged persons a minimum subsistence wage, by the social services of the communes, or through social programmes implemented with the help of NGOs; they also had access to soup-kitchens. He hoped that the Committee's expectations had been met by the information which he had provided in reply to the three questions on article 11 not covered in the written text.

12. The CHAIRPERSON asked the members of the Committee if they wished to receive further information on issues related to article 11 which had been dealt with in the written text.

13. Mrs. BONOAN-DANDAN said that she was not really satisfied with the written answers to question 19 on the percentage of the homeless population and the number of inhabitants of shanty towns. Information such as that provided in paragraphs 100 and 101 of the report was very general, and it was very unfortunate that no statistics were given. The same was true of the reply to question 21 on the situation of the Gypsy population in relation to the right to housing. What was the meaning of the statement in the written reply that 22 per cent of Gypsies lived in dwellings which met normal standards and 28 per cent lived in substandard housing (shanty towns, old urban neighbourhoods, etc.)? It would be useful to have specific information on the housing assistance measures provided to the Gypsy population over the past five years. She also asked for information on the situation of women,

particularly women living alone and Gypsy women, with regard to the right to housing. Were women aware of their right to housing and, in general, of the rights set forth in the Covenant.

14. Mr. GRISSA, referring to paragraph 92 of the report, asked how, and up to what age, neglected children were protected by the State.

15. Mr. KOUZNETSOV said the second part of the written replies stated that several criteria were used in providing financial assistance to needy students. He wondered what was meant by the statement that one of those criteria was the legal status of the educational institution concerned.

16. Mr. WIMER ZAMBRANO said that he wished to make a general comment regarding the situation of the Gypsies. Everyone knew that the Gypsies were essentially a marginal people and that, in all the countries where they were found (e.g. Romania), it was very difficult to determine their living conditions or to gather statistics on them. Before going into detail, it would be useful for the Spanish delegation to explain briefly the situation of the Gypsies in Spain and their relations with the State.

17. Mr. CEAUSU said that he welcomed the additional information on the implementation of article 13 provided in document E/1994/104/Add.5, which constituted a thorough study of the Spanish education system. He asked for an explanation of the statement in paragraph 154 of the report that the first cycle of university education was shorter than the second cycle, whereas logic suggested that the reverse would be true. He requested more statistics, in particular on the granting of scholarships, in order to see what financial efforts the State was making in that area, and asked what percentage of students received scholarships. With regard to distance education at the university level, Spain seemed to be ahead of other European countries and might offer a model for other countries. What social sectors were benefiting from that education and how many people were studying and obtaining diplomas through distance education?

18. Mr. ADEKUOYE asked for more information on the results of the special programme implemented by the authorities to lower the drop-out rate, particularly among Gypsy children.

19. Mr. GRISSA requested further information on paragraph 123 of the report. He wondered what responsibilities the Autonomous Communities had with regard to teaching of the regional languages and whether they were free to teach in Basque or Catalan.

20. Mr. THAPALIA asked whether the Government had taken steps to ensure that human rights instruction was provided at all educational levels, and in the armed forces and the police, in connection with the United Nations Decade for Human Rights. He also wondered whether the Spanish Government planned to accede to the optional protocol (currently being drafted) to the International Covenant on Economic, Social and Cultural Rights.

21. Mr. NUÑEZ (Spain) said that the previous reports of Spain had included replies to the questions relating to articles 7, 8 and 9 of the Covenant and invited Mr. González Escolar, a representative of the Spanish Ministry of

Labour, to outline the new developments relating to those articles which had occurred since the submission of Spain's second periodic report.

22. Mr. GONZALEZ ESCOLAR (Spain), on the basis of the guidelines in document E/C.12/1991/1 regarding the preparation of reports on the implementation of the Covenant, summarized a document without a symbol relating to those articles which he had received the previous day from his Government and which had not yet been submitted to the Committee.

23. On article 7, he said that Spanish legislation reflected the eight ILO conventions relating to wages, health and safety in the workplace, and equal opportunity. In Spain, wages were set after collective bargaining between representatives of workers and employers. Those wages were higher than the inter-trade minimum wage, which was 2,164 pesetas a day in 1996. A recent document which his Government had sent to the Committee showed the movement of wages since the submission of Spain's second periodic report and of the average wages for the various sectors of the workforce. With reference to question 2 (c) of document E/C.12/1991/1 relating to article 7, he said that there was no inequality in remuneration for work of equal value. Infractions of the law were dealt with by the labour inspectorate or, as a last resort, the courts.

24. With regard to health and safety in the workplace, he said that the 1995 Act on risk prevention in the workplace repeated the provisions of ILO Convention No. 155 and several Community directives. The Act applied to both the public and private sectors and included the requirement that workers should be consulted on health and safety questions. The document which Spain had submitted included statistics on accidents in the workplace and work-related illness over the past 10 years. As a result of the implementation of measures in that area three years previously, there had been a reduction in the number of such accidents and illnesses.

25. The Labour Code, which had been approved by royal decree in 1995, included provisions establishing the length of the working day, rest periods and public holidays. The working week was limited to 40 hours and there must be a 12-hour break between the end of one working day and the beginning of the next. Overtime could not exceed 80 hours a year. There was a different wage scale for night work. A minimum of one and a half rest days a week was obligatory, and the number of public holidays was set at a maximum of 14 a year. The Act also specified the reasons for which workers were authorized to take time off, for example, to get married or engage in union activities.

26. With regard to the questions relating to article 8 of the Covenant, he said that Spain had ratified three ILO Conventions. There had been no change in the applicable legislation on the right to strike, which had been in force since 1977.

27. The CHAIRPERSON drew the delegation's attention to the fact that, in accordance with the Covenant, it was within the Committee's mandate to consider the question of the enjoyment in practice of social, economic and cultural rights in States parties and any problems which had arisen in that regard. He therefore asked the delegation to highlight any problems caused by implementation of the various articles of the Covenant.

28. Mr. GONZALEZ ESCOLAR (Spain) described the changes in the law concerning trade unions since the submission of his country's second periodic report. The 1985 Organization Act relating to trade union freedom established the principle of trade union freedom, in accordance with the international provisions in force, and the right to form a union without prior authorization. Only members of the armed forces and the Guardia Civil and practising judges, magistrates and prosecutors did not have that right. Similarly, senior civil servants, such as those of executive director rank, could not be given decision-making positions in unions. Police officers could join only professional organizations, at the national or international level. Trade union law considered members of local police forces as civil servants, subject to the same rules as civil servants. A union could be neither suspended nor disbanded without a court decision. Unions had the right to form federations or confederations and to join international organizations.

29. An Act of 1987 specified various procedures for union participation in the civil service, for example, with regard to appointments and the organization of recruitment examinations. Act No. 790 of 1990 dealt with collective bargaining and union participation in the determination of working conditions for civil servants. In 1991-1992, union elections in the administration had been the subject of a new framework agreement between the administration and the unions, which governed union representation at the national level and in the Autonomous Communities. In 1993-1994, a new law had abolished the official period required for the organization of union elections in the civil service. Referring to the question relating to the implementation of article 9 of the Covenant in document E/C.12/1991/1, he said that Spain was a party to ILO Convention No. 102 and, in that capacity, regularly sent that organization reports on implementation of that Convention.

30. In reply to question 2, he said that all the benefits listed were included under the social security system. On question 3, there had been progress in the field of social protection since the submission of the second periodic report. For example, all Spaniards over a certain age had a right to social security. The document without a symbol which had been addressed to members of the Committee and which he was summarizing included detailed documentation on that very complex question.

31. In reply to question 4 of the revised general guidelines (E/C.12/1991/1) relating to the implementation of article 9 of the Covenant, he said that the percentage of the national budget spent on social security had risen from 11.44 per cent in 1988 to 15.87 per cent in 1995.

32. In connection with question 5, he said that supplementary social security was provided in three ways: an optional scheme associated with the general social security scheme, a private social insurance scheme, and another private investment and pension plan.

33. In response to question 6, he said that there was no legal discrimination between men and women with regard to social security. All employees were covered by a social security system which was set up in such a way that no group as such was excluded from social security benefits.

34. On question 7, he said that several measures had been taken to strengthen and stabilize the social security system: increase in the level of contributions, reassessment of contributions in relation to the consumer price index, increase in the minimum contribution periods for entitlement to social benefits, link between the contribution rate and the real wage, etc. Health and medical coverage had been extended to all citizens.

35. Mr. NUÑEZ (Spain) added that his delegation was aware of the shortcomings in Spain's implementation of articles 7, 8 and 9 of the Covenant. However, it had tried to give the Committee as full an explanation and as much information as possible, in particular on questions relating to the unemployment rate, which was particularly high among women and was continuing to rise, especially in certain Autonomous Communities. His delegation had also tried to describe the measures which the Government had taken in an attempt to solve that problem.

36. With regard to the right to organize, Spain had ratified ILO Convention No. 87 and was committed to implementing its provisions. His delegation would provide more detailed information on recent problems associated with limitations on the right to organize and the right to strike.

37. The CHAIRPERSON invited the Spanish delegation to reply to the written question on the implementation of article 12 of the Covenant, which concerned the right to health.

38. Mr. GONZALEZ DE LINARES (Spain) said that since its previous report, Spain had taken very important steps to improve its health services; as a result, 98.5 per cent of the population had public health-care coverage, including persons without financial resources, who were not covered by social security. All the public health services had been incorporated into the national health system in accordance with an integrated health-care concept. Management of the health-care system had been completely decentralized and turned over to the Autonomous Communities, which received 50 per cent of the national health-care budget and had been given a wide range of responsibilities in the health field.

39. New benefits had been added to cover oral hygiene and dental care, particularly for children, pregnant women and the elderly; coverage had also been added for voluntary termination of pregnancy, sterility treatment and psychiatric care.

40. Spain's health-care policy was defined by the General Health Care Act of 25 April 1986 and by Decree No. 137/84 on basic health-care structures, which established the basis for integrated, ongoing and permanent primary health care. Those laws should make it possible for Spain to ensure health for all by the year 2000, in accordance with the goal set by WHO. The laws currently in force were a concrete embodiment of the fundamental right to health care, which was recognized for all Spaniards and for foreigners residing in Spain. The law guaranteed free choice of general or specialist medical practitioners and recognized the right to free exercise of the health-care professions.

41. The National Health Plan of the Ministry of Health and Consumer Affairs defined areas of priority, which included ageing, AIDS and cancer; health-care expenditure had risen by 1.1 per cent of GDP between 1985 and 1993. The infant mortality rate had declined by over 20 per cent during the same period and was currently 7.1 per thousand among children under one year of age, one of the lowest rates of any industrialized country. The systematic vaccination of infants against diphtheria, tetanus, whooping cough and poliomyelitis had resulted in a significant drop in the death rate associated with those illnesses; 89.7 per cent of children under two years of age had been vaccinated. The overall mortality rate had declined sharply in Spain, where no one was more than 20 minutes away from a health-care centre or more than 60 minutes from a hospital.

42. With regard to housing, in 1991 only 0.7 per cent of dwellings had been without running water. The structure and organization of the health system guaranteed effective health care to people over 65 years of age, a group which received particular attention from the health services. In that regard, life expectancy was high: 80.5 years for women and 73.3 years for men.

43. Since health-care services were continuing to develop and becoming universal, there had been no decline in that area. However, the Government was taking steps to enhance health care by further improving the health services, by making more effective use of medical technology and by improving professional training, diagnostic procedures, and information and evaluation systems.

44. Mr. ALVAREZ VITA considered that the additional information provided orally by the Spanish delegation was very satisfactory. By providing that information, Spain had fulfilled all its obligations with regard to its third periodic report (E/1994/104/Add.5). He nevertheless requested details on the percentage of elderly persons and AIDS patients in the Spanish population, the reasons for the difference in life expectancy between men (73 years) and women (80 years) - in the 1930s and 1940s life expectancy had been greater for men, and the reference year for the maternal mortality rate of 63 per 100,000 mentioned by the representative of Spain.

45. Mr. GONZALEZ DE LINARES (Spain) said that, of Spain's 40 million inhabitants, there had been 36,315 AIDS patients as of December 1995; the mortality rate of that group was 60 per cent and 7,000 new cases were diagnosed every year. He confirmed that the life expectancy of women was currently greater than that of men, as was the case in most neighbouring countries. The maternal mortality rate in 1980 and 1992 had been 63 and 19 per 100,000 births respectively.

46. Mrs. AHODIKPE, referring to the right of every individual to equitable and favourable working conditions, asked whether adolescents could be employed in unhealthy or arduous jobs, for example, in family firms or rural undertakings. What was the Government doing to avert that practice and was there a minimum wage for working adolescents?

47. Mrs. BONOAN-DANDAN (Rapporteur for Spain) said that she found the procedure followed in the consideration of the third periodic report of Spain to be inefficient and inadequate: the absence of written replies to the questions concerning articles 7, 8, 9 and 12 was unfortunate.

48. Referring to a communication from a trade union in the Basque country, which stated that apprentices under 18 years of age apparently received lower wages than workers over 18 years of age, she asked how that exclusively age-based system of remuneration could be compatible with articles 2 and 7 of the Covenant. The communication also referred to a definite inequality between men and women, with regard not only to employment but also to promotion prospects. She asked for information on the situation of women in Spain with regard to the rights set forth in article 7 of the Covenant and to sexual harassment. The communication further stated that, in 1995, 1 million people had suffered accidents in the workplace and that 1,356 of them had died. It would seem that 80 per cent of employers did not observe the laws on health and safety in the workplace. What was the Government doing to remedy that situation and what problems was it encountering in enforcing the law?

49. Turning to article 9 of the Covenant, she asked whether it was true that apprentices and part-time workers, primarily women, were not entitled to any unemployment benefits even though, in accordance with ILO recommendation No. 150, which Spain had signed, those people should have the same rights as other workers.

50. The above-mentioned communication had emphasized the problems encountered in developing the Basque language, particularly in work relations. According to the trade union which had sent the communication, that situation could be remedied only if the Basque people were recognized as a nation, with collective rights, so that Basques could participate, in their own language, in international agreements between free and sovereign peoples.

51. Mr. GRISSA asked what groups were most affected by AIDS, what the precise causes of transmission of the virus were and what preventive measures were being taken.

52. Mr. CEAUSU said that he had found the information provided orally by the Spanish delegation to be quite complete and that, in his opinion, the Committee could declare itself satisfied with the procedure followed. However, he requested further information on the exercise of the right to strike in Spain and on the number of strikes that took place in a given year. One of the representatives of Spain had said that everyone on the labour market was covered by the social security system. He asked what was meant by "people on the labour market", from what age and what level of training one was considered to be in that category, and whether registration with an employment agency was required.

53. Mr. AHMED, referring to the right to unionize, asked how the union of the Guardia Civil, whose members were forbidden to engage in any union activity under the Constitution, could in fact exist since it had been banned by the Constitutional Court and was not officially registered.

54. It was his understanding that the national health system covered foreigners. He wondered whether that included only nationals of the European Union or all categories of foreigners, including tourists legally staying in Spain.

55. It was also his understanding that all the Autonomous Communities had the right to teach their own language along with Castilian. He asked whether they were permitted to teach only their own language, or whether they could do so only on condition that they also taught Castilian. One of the Spanish Government's replies mentioned the preservation of mother tongues, "such as Arabic in Catalonia". For whom, in that Autonomous Community, was Arabic the mother tongue?

56. Mr. ADEKUOYE asked how many legal proceedings were initiated each year for offences against the law on the right to work of minors under 18 years of age and how many convictions resulted.

57. With regard to article 9 of the Covenant, he asked for more information on the situation of individuals who did not meet the requirements for receiving social security benefits.

58. With regard to article 12, concerning the right to health, he asked for statistics on the incidence of cardiovascular disease, cancer, diabetes and tuberculosis during the previous five years.

59. Mr. RATTRAY said that the Spanish delegation's presentation on the situation of social security in Spain did not show whether there had been an increase or a decrease in the benefits provided, although States parties to the Covenant were required, in accordance with article 2, to take steps with a view to achieving progressively the full realization of the rights recognized therein. It appeared that, in 1993, steps had been taken to reduce coverage for pharmaceutical products. What was the situation exactly? According to an International Monetary Fund (IMF) report, the period during which a person who had recently entered the labour market was ineligible for unemployment benefit had been increased in 1992 from 6 to 12 months, while the amount of benefit had been reduced by 12 per cent and the maximum period of eligibility had been cut by one third. If that was the case, he asked what the reasons for those reductions were and how they could be reconciled with the obligations set forth in article 2, paragraph 1, of the Covenant.

The meeting rose at 1 p.m.

UNITED
NATIONS

E

Economic and Social
Council

Distr.
GENERAL

E/C.12/1996/SR.6
7 May 1996

Original: ENGLISH

COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Fourteenth session

SUMMARY RECORD OF THE 6th MEETING

Held at the Palais des Nations, Geneva,
on Thursday, 2 May 1996, at 3 p.m.

Chairperson: Mr. ALSTON

later: Mr. GRISSA

CONTENTS

ORGANIZATION OF WORK

CONSIDERATION OF REPORTS:

(a) REPORTS SUBMITTED BY STATES PARTIES IN ACCORDANCE WITH ARTICLES 16 AND 17 OF THE COVENANT (continued)

Third periodic report of Spain (continued)

---

This record is subject to correction.

Corrections should be submitted in one of the working languages. They should be set forth in a memorandum and also incorporated in a copy of the record. They should be sent within one week of the date of this document to the Official Records Editing Section, room E.4108, Palais des Nations, Geneva.

Any corrections to the records of the meetings of the Committee at this session will be consolidated in a single corrigendum, to be issued shortly after the end of the session.

GE.96-16037 (E)

The meeting was called to order at 3.05 p.m.

ORGANIZATION OF WORK

1. The CHAIRPERSON recalled that the secretariat had been negotiating an arrangement with the Economic Commission for Latin America and the Caribbean (ECLAC) that would involve a more formal exchange of information about the situation in countries covered by the Commission, an arrangement that could develop into something more substantive. He took it that the Committee wished him to send a letter to ECLAC to the effect that the Committee would welcome the receipt of as much information on economic, social and cultural rights as it had to offer and that the Committee would happily share its relevant information with ECLAC.

2. It was so decided.

3. Mr. Grissa took the Chair.

CONSIDERATION OF REPORTS:

(a) REPORTS SUBMITTED BY STATES PARTIES IN ACCORDANCE WITH ARTICLES 16 AND 17 OF THE COVENANT (agenda item 4) (continued)

Third periodic report of Spain (continued) (E/1994/104/Add.5; E/C.12/1995/LQ.2/Rev.1; HRI/CORE/1/Add.2/Rev.2)

4. At the invitation of the Chairperson, Mr. Nuñez, Mr. Gomez-Lobo, Mr. Gonzalez de Linares, Mr. Avila, Mrs. Sanchez Garcia, Mrs. Ayuso Estivez and Mr. Gonzalez Escolar (Spain) took places at the Committee table.

5. The CHAIRPERSON invited the members of the delegation to answer questions put by the Committee at the 3rd and 5th meetings.

6. Mr. GOMEZ-LOBO (Spain) said that it took a three-stage process of five or six years for foreigners to obtain a permanent residence permit or permanent work permit in Spain; in the meantime they automatically enjoyed all the inalienable individual rights guaranteed under the Constitution, as listed in paragraph 17 of the report (E/1994/104/Add.5). After having received either the initial temporary residence permit or the initial work permit, they enjoyed, in addition, all rights guaranteed under Royal Decree No. 1119/1986 approving the implementing regulations of Organization Act No. 7/1985 concerning the rights and freedoms of foreigners, which included the right to freedom of movement, the right of assembly, the right to join trade unions, the right to legal assistance and protection of the courts, the rights to education, welfare benefits and health care, a restricted right to vote and many others.

7. Foreigners could indeed form and join trade unions under both article 2.7 of Organization Act No. 11/1985 relating to trade-union freedoms and article 4 of the Workers' Statute, neither of which established any restrictions on the grounds of national origin, and under ILO Convention No. 87, concerning Freedom of Association and Protection of the Rignt to Organize, which Spain had ratified.

8. With regard to undocumented foreigners, the third campaign to legalize their status had begun on 23 April 1996; those of 1990 and 1991 had succeeded in legalizing 128,000, and it was hoped that the current campaign would legalize 35,000 to 40,000. Any undocumented foreigner and his family members, as well as any undocumented family member of a legal resident, who since 26 May 1986 had been present in Spain and was in possession of some type of work or residence permit or simply some kind of registration as a foreigner, and who was not currently involved in expulsion proceedings or criminal proceedings, was eligible to apply for legalization. Since Royal Decree No. 155/1996 specified that all foreigners must obtain a residence permit, foreigners who chose not to legalize their status were liable to expulsion from the country for a minimum of three years, a process carried out openly in several stages, with legal safeguards throughout, including time-limits on any pre-trial detention.

9. Spanish law (Act No. 5/1984 regulating the right of asylum and refugee status) went further than the 1951 Geneva Convention relating to the Status of Refugees in that it granted refugees and asylees the right of residence and the right to work in Spain, with a special humanitarian provision facilitating the employment of those fleeing conflicts. The law was now applied very scrupulously to avoid manifestly unfounded or abusive applications - very common in the past - by those who in reality were economic immigrants. Spain had recently simplified and expedited its system for the review of applications for asylum or refugee status, as recommended by the Office of the United Nations High Commissioner for Refugees (UNHCR) in Conclusion No. 30 (XXXIV) (1983) adopted by the Executive Committee of the UNHCR Programme. The number of refugees and asylees was in fact declining in Spain, in part because of the more stringent scrutiny of applicants, and in part because of the Government's generous legalization, residence and employment offers specifically targeting all foreigners who genuinely desired to live and work in the country.

10. By law (report, para. 21 (b) (i)), the salaries and working conditions of foreigners were equal in all respects to those of nationals. Under Royal Decree No. 155/1996, foreigners who wished to work were required to apply for a work permit, generally granted at the same time as the residence permit, and employers were prohibited from hiring foreigners without one. Immediate family members of a legal resident with a work permit were given preferential consideration for work permits. Students were generally not authorized to engage in paid work, but could receive exceptional authorization for part-time employment consistent with their studies, provided it was not their sole means of support.

11. Regarding the status and nature of the Gypsy minority in Spain, there were many different and varied Gypsy communities, although all maintained a single identity, culture, value system, social structure and language. According to the Ministry of Social Affairs, there were probably 600,000 Gypsies in Spain, although their numbers could not be determined precisely and they were now mostly sedentary. The Gypsy communities were concentrated in the Autonomous Communities of Andalusia, Valencia and Murcia and the big cities (Madrid, Barcelona, Seville, Granada, Valencia, Zaragoza and Bilbao). It was a young population, almost half estimated to be under 16 and very few over 65. There were more men than women, and the birth rate was

four times the national average. The family was the basis of Gypsy social structure and children received only general education. Their main occupations were street vending, scrap collection and seasonal farm work, although little by little they were becoming trained in more skilled work.

12. Measures taken by the Government in support of Gypsies included affirmative action programmes and general policies to alleviate their poverty; special programmes to assist with the integration of Gypsies into the labour force; better access of Gypsy families to the so-called "welfare wages" available in the communities in which they lived; and better access to subsidized public housing under the Housing Plan and the special Plan for the Rehousing of Gypsies being implemented in the large cities. In Madrid, for instance, under the Rehousing Plan, 3,727,000 pesetas had been spent between 1986 and 1995, and close to 2,500 housing units had been built or planned. Housing in the Gypsy communities did not fit the standardized concept of urban housing, being closer to an agrarian, non-urban model. The eradication of shanty towns inhabited by Gypsies was made difficult by the legal problems involved in interference with the right to shelter, even if temporary and illegal, and by the need to respect the customs of an ethnic minority: persons could not be forced to live in conditions which for any reason they deemed unacceptable. Nevertheless, Gypsies were increasingly availing themselves of their eligibility for public housing.

13. Mrs. BONOAN-DANDAN asked how, if accurate data were not available on shanty towns in general, not simply those occupied by Gypsies, reliable data could be available on the construction programmes to replace them.

14. Mr. GONZALEZ de LINARES (Spain) said that municipal governments did have such data but it had not been possible to compile them at the national level.

15. Mr. AVILA (Spain), replying to the question concerning subjects taught and degrees awarded in university-level distance education, said that the subjects were the traditional ones taught in universities, and the procedure was substantially the same as well. What were different were the methodology of teaching, the system of communication and the method of assessment. In 1988, there had been 107,000 graduates and in 1992, 121,879; such courses constituted an important means of access to higher education especially for people over the age of 25, and the quality of the education provided was rising. Higher degrees were awarded, as well as first degrees.

16. As for the legislation providing for direct admission to university courses for persons over the age of 25, he said that since 1970 it had been possible for that age group to gain admission to courses without qualifications; they merely had to pass two basic specific tests, which were held twice a year. Once they were accepted, they took an orientation course which helped them to adapt to university studies.

17. On the question of the academic regime in private universities and the recognition their degrees enjoyed, he said that although the private universities operated according to their own rules (subject to official approval), the academic regime was the same as that of public universities. Common general guidelines were laid down for both, but degrees awarded by private universities did not enjoy automatic official recognition. Private

universities had their own rules and regulations, which were subject to official approval. The private universities were structured in a similar way to the State universities - with faculties, departments and chairs. Staff teaching in private universities held employment contracts, but unlike their opposite members in the State universities they did not have civil-servant status. Teaching posts in public universities were secured through competition, while private universities were able to select and hire the staff they wanted. Teaching staff in public universities were able to give classes in private universities. There were significant variations in the salaries paid by the private universities, so comparison with the public university system was difficult. Comprehensive figures from a report published in 1995 would be made available to the Committee. The legal status of free education in Spain was guaranteed by two fundamental Organization Acts and by article 27 of the Constitution.

18. Concerning the level and type of university studies, he explained that first-cycle studies in themselves constituted university training; the period of study was short but a diploma was awarded when it was completed; the subject areas to which it applied included social work, teaching, nursing and physiotherapy. Then there were university studies comprising two cycles lasting five years, successful completion of which led to the award of the degree of Cicenciado. In that case, the first cycle did not normally culminate with a diploma but in some two-cycle courses (e.g. some technical subjects and engineering) a diploma was awarded at the half-way stage. In certain subjects it was possible to obtain a licenciado after the first three years, for example, languages and the history of music. Third-cycle studies - lasting two years - led to a doctorate.

19. Clarification had been requested regarding scholarships and grants. In 1985, they had cost 17,863 million pesetas; by 1995 the figure had risen to 91,278 million pesetas. The corresponding figures for the number of students receiving scholarships were 381,000 in 1985 and 850,000 in 1995. In 1993 and 1994, the amount of money disbursed for scholarships had been allocated in the following proportions: 2.2 per cent for preschool education, 2 per cent for primary education, 34.3 per cent for secondary education and 61.5 per cent for university education. The relatively low proportions for the first two categories were due to the fact that they were both compulsory and free. The distribution of scholarships in 1993 and 1994 was 5.2 per cent for preschool education, 2.3 per cent for primary education, 26.5 per cent for vocational training, 34 per cent for the Bachillerato and 32 per cent for university education.

20. Spain's decentralized education system made it difficult to speak of a common core framework, but there was an official curriculum in which the State set minimum standards to be met throughout the country. Fifty-five per cent of the core curriculum was common to all and taught in one of the country's official languages; 10 per cent of the core curriculum must be taught in the language of the Community concerned; and 35 per cent was variable according to local choice and requirements.

21. The law in Spain protected diversity in education, and devoted particular attention to students with special education needs resulting from personal ability and circumstances, or personal school history, background or origin,

for example by virtue of their belonging to a disadvantaged group. There was a programme to deal with absenteeism and drop-out which was targeted at disadvantaged groups. The educational establishment concerned cooperated with the social and cultural services and the local authority, and welcomed the participation and collaboration of NGOs and parents' associations. There was also the possibility of NGOs representing disadvantaged groups who were experiencing difficulties at school with a view to helping them to make their requirements and opinions more clearly understood.

22. Spain operated a system, which was part of the Socrates Programme, to help groups like Gypsies, immigrants, seasonal workers and people who for reasons of health could not attend school to get a better education; in the case of persons of foreign origin it helped them to acquire a better understanding of their mother tongue and culture. Such programmes existed for the children of Portuguese and Moroccan immigrants; Spanish children could also take part and learn Portuguese and Arabic. Some 4,500 students of non-Moroccan origin were currently studying the language and culture of Morocco: two thirds of them were Spanish and the rest Portuguese.

23. As to human rights education, the compulsory school curriculum comprised the teaching not only of human rights, peace, tolerance and freedom, but also of ecology and the protection of nature. In Spain it was seen as particularly important to develop positive personal attitudes to such matters.

24. Mrs. SANCHEZ GARCIA said that the basic difficulty in eliminating wage differentials between men and women was that women had entered the labour market relatively recently and were still the victims of deep-rooted cultural stereotyping. Most managers were still men, and in spite of rapid recent advances in employment, women were still valued more for their reproductive and domestic functions. There was a greater need to reconcile their professional and private lives in the case of women than in the case of men. Collective labour agreements had not evolved sufficiently, and when men performed jobs that were also done by women they usually gave themselves different, grander titles.

25. At entry to the job market, the differential between young men and young women was much less, but the persistence of cultural stereotypes meant that young women had fewer opportunities for advancement, which led in the end to wage differentials. The classification of jobs in collective bargaining could also lead to indirect discrimination. Some positive results in respect of equal pay had been obtained through the courts. The right to equal pay was expressly stated in article 28 of the Workers' Statute. The Women's Agency had appointed a group of experts and union officials to study the effect of job classification on indirect wage discrimination. The Agency's current aims in the matter were to encourage clauses prohibiting discrimination in collective labour agreements, to promote the sharing of domestic responsibilities, and to promote the access of women to employment and widen the range of jobs open to them.

26. Single-parent families tended to be headed more by women for various reasons, one being that, in the event of divorce, custody of the children was usually awarded to the woman. Whether or not a woman was legally married had no effect on her status. The children of non-matrimonial unions had exactly

the same rights as other children. State guardianship of abandoned children who became wards of the State or the Autonomous Communities lasted until the age of majority.

27. There were a number of programmes for women subjected to domestic violence or sexual aggression, but none were specifically directed towards Gypsy women. Women were encouraged to report any attacks and steps had been taken to sensitize male police officers to the importance of such reports. Under the programmes, women were given information, safe housing where they could have their children with them, legal aid, psychological counselling and help in returning to social life and work. In response to the question about special difficulties for women in regard to conditions of work, she said that sexual harassment had been designated as an offence under the new Criminal Code. There were more women than men in part-time or temporary work but the high unemployment rate was in part responsible. Women's participation in political life was growing: their representation in Parliament had increased by 22 per cent since 1993.

28. Mr. ADEKUOYE asked whether there was any wage discrimination in the civil service and whether there was a government programme to educate both sexes in order to stem violence against women.

29. Mrs. BONOAN-DANDAN asked what measures the Government planned to take to prevent sexual harassment in the workplace.

30. The CHAIRPERSON asked how abandoned children were taken care of and how many children there were in that category.

31. Mrs. SANCHEZ GARCIA (Spain) said that there was some indirect discrimination in the civil service but much less than in other employment. Steps were being taken to improve opportunities for advancement. There was no wage discrimination. She believed that education was essential to combat violence of all kinds, not just against women. The Government was taking steps to end sexual harassment at work and the Third Plan for Women contained a number of programmes to that end. There were very few completely abandoned children in Spain: the problem was rather one of ill-treatment or lack of care at home. The State protected such children through judicial procedures which offered guarantees to all parties concerned. Efforts were made to keep such children in a family environment, if necessary through foster care.

32. Mrs. AYUSO ESTEVEZ said a question had been asked about the implementation of the NOW/INEM Local Corporations Plan referred to in paragraph 45 of the report. The Women's Agency had been established in 1983. Subsequently, the Government had adopted its First Plan for Equal Opportunity for Women (1988-1990). Experience with the First Plan had led to the adoption of the Second (1993-1995), which had aimed at improving employment prospects through training and counselling and at encouraging entrepreneurship among women. It had also sought to encourage a positive attitude in both public and private undertakings regarding access by women to posts of responsibility. As part of the Second Plan, the Women's Agency had devised an Integrated Plan for Access to Employment, in cooperation with the National Employment Institute (INEM) and local corporations. The aim of that Plan had been to create a network of services for women job-seekers. It operated in 14 Spanish

provinces, covering all geographical areas of the country, and involved five services: GIRAs, for women entering the world of work; "Descubre otras profesiones" (Find out about other jobs), designed to introduce unemployed women to non-traditional areas of work; NOVA, which offered special innovative training to groups of women in need of a special response; MABEM, which offered instruction in job-seeking; and ENTREPRENEURS, which helped women create their own jobs through technical assistance, special training and support for small businesses set up by women. On completion of the Plan in 1994, the tools and methodologies used had been incorporated in the Integrated Employment Services for application throughout Spain.

33. In 1995, a new agreement had been signed between the Unit administering the European Social Fund of the Ministry of Labour and Social Security and the Women's Agency to develop a new plan, NOW II (1995-1999). The new plan was to be carried out through three programmes: the programme of technical assistance to women entrepreneurs, the Rural Women's Network and OPTIMA, the programme for equal opportunity at work. The first programme was for women already running, or wishing to start, their own business. The second was directed at rural women, who were becoming more independent and developing new roles. They already engaged in various activities to supplement the family income, and the programme was designed to help them to become more skilled. The third programme, OPTIMA, which was being carried out by the National Women's Agency, the Andalusian Women's Agency and the Basque Women's Agency, was designed to support firms which took affirmative action to employ and promote women and to encourage their participation in top posts and in jobs where they were under-represented, with a view to achieving a better utilization of human resources. The human resources represented by women, so important to the national economy, were at present mismanaged.

34. The new plan, NOW II, like the old one, was managed by the Unit administering the European Social Fund within the Ministry of Labour and Social Security. Any woman wishing to work for the first time or to re-enter the job market could use the services of the programmes. The effects were felt throughout Spain, since the governments of all the Autonomous Communities and many municipalities and private associations proposed projects for coordination by the Women's Agency. The first Plan had been of great value and constituted a very important aspect of the work of the Women's Agency.

35. In reply to Mr. Ceausu, Mr. GONZALEZ ESCOLAR (Spain) said that 160,000 disabled persons in Spain were currently in receipt of a monthly disability pension of 25,000 pesetas, with further benefits covering health costs, carers, wheelchairs and transport. About 6 per cent of public-service employees were disabled.

36. Enterprises were awarded incentives of over 500,000 pesetas for employing disabled persons. If temporary apprenticeship contracts became permanent, additional assistance was received and taxation on the company reduced. Since 1982, the total number of disabled persons employed through incentive schemes had exceeded 30,000; in 1995 alone there had been 4,000.

37. Subsidies amounting to a total of 1 million pesetas were provided by the State to promote the employment of disabled persons in 351 Special Employment Centres. Contracts awarded to disabled persons in 1994 had numbered 4,444,

and the figure was steadily rising. In occupational centres, severely disabled persons received occupational therapy rather than employment.

38. Given Spain's high unemployment rate, measures to promote the employment of young people included apprenticeship contracts and the setting-up of placement agencies and temporary work agencies. Those schemes were covered by three Acts adopted in 1994.

39. He enumerated various policies devised by the Ministry of Labour and the National Employment Institute for improving employment opportunities. They included investment in vocational training, labour reform, more flexible human resource management, part-time work, coordinated employment services, wage cost reduction policies, lowered contributions, the reduction in labour costs of certain communities, schemes to improve the effectiveness of labour market policies, reallocation of unemployment funds to the most effective employment schemes, measures to encourage young people to actively seek work, improved intervention services, authorization for temporary work agencies and employment policies focused on specific sectors of the population such as young people, women, the long-term unemployed and older persons. As a result of those policies, 370,000 new jobs had been created in 1995 and 180,000 fewer people registered as unemployed.

40. In response to questions by Mr. Grissa and Mr. Texier on youth unemployment, he said that over the past decade, approximately 300,000 people under the age of 25 had registered as unemployed, representing a reduction of 600,000. There were also 55,000 fewer employees under 25. The reduction of unemployment in that sector was greater than for adults. Young people's situation had improved, although their unemployment rate was still higher than their overall employment rate.

41. It must be remembered that the current generation of young people were the best educated in Spanish history. The Ministry of Labour had organized a vocational training scheme for 45,000 young people in 1995. Firms were given incentives for awarding apprenticeship contracts to young people and subsidies for permanent contracts. In 1994, the scheme had helped over 250,000 young people to find work.

42. If a young person were to lose his job, he was entitled to the same benefits as any other worker, irrespective of age. If he was not entitled to unemployment benefit for some reason, little assistance was available unless he lived with his parents, in which case they could claim family education grants for dependent children. Students were also entitled to grants and orphans could claim social-security benefit.

43. There were basically two types of unemployment benefit: contributory benefits and nationwide income support benefits. In Andalusia and Extremadura where unemployment was higher, subsidies existed for farmers. The amount of contributory benefit depended on the contributions made during the six months preceding redundancy. Other criteria for determining benefit levels included the number of dependent children. The duration of such benefits varied from four months to two years, depending on the number of days for which contributions had been paid over the preceding six years. Unemployment benefit could be awarded for between 3 and 30 months depending on individual

circumstances. Persons over 54 could also claim benefit until they reached retirement age. Such subsidies generally amounted to 75 per cent of the average minimum wage. In Andalusia, it was payable for between 90 and 360 days.

44. Unemployment contributions were made jointly by employers (6.2 per cent) and their employees (1.6 per cent). In 1995, a total of 600,000 people had received unemployment benefit, including some 200,000 in Andalusia. Employment of persons under the age of 16 was punishable by law.

45. With a view to reducing the high level of youth unemployment, apprenticeship contracts had been introduced with a fixed wage amounting to approximately 90 per cent of the normal wage. Young people sometimes earned less than the minimum wage, for if they only worked 50 per cent of a normal day, they were only entitled to half a day's pay. During apprenticeship, 15 per cent of working time was set aside for training. The scheme aimed to encourage companies to convert apprenticeship contracts into permanent contracts through financial incentives.

46. Employees were entitled to participate in discussions on the prevention of work-related accidents (covered by Act No. 31/1995). Penalties existed if regulations were breached. From 1990 to 1994, work-related accidents had fallen by approximately 17.5 per cent to around 1 million. There was no cause for complacency, however; all such accidents must be eliminated.

47. No discrimination existed against women apprentices regarding the termination of contracts. If apprentices, freelances and seasonal workers did not contribute to unemployment insurance, they could not claim the corresponding benefit. They were, however, all entitled to contributory accident, illness and maternity benefits and pensions.

48. The right to strike was established in article 28 of the Constitution, although restrictions on the exercise of that right could be introduced since Act No. 77 stated that no constitutional right was unlimited. A strike must establish precise guarantees to ensure that services to the community were maintained. In recent years, there had only been one complaint regarding the right to strike. It had been submitted by the Trade Union Confederation concerning the right to strike of employees of the Ministry of Education and Science. ILO had maintained that there had been no violation with regard to the freedom of association.

49. Only a judicial authority could determine whether it was necessary to guarantee a minimum level of services during a particular strike. The right to strike in Spain was, however, fully respected. In 1992 and 1994 there had been two general strikes, affecting approximately 35 per cent and 40.2 per cent of employees respectively. Some 5.4 million workers had been involved in strike action in 1994, with a total of 6.4 million working days lost. That represented 1.15 days per striker. In 1995, 511,000 workers had gone on strike with a corresponding loss of 1.2 million days, amounting to an average of 2.4 working days per striker.

50. All workers were entitled to be affiliated to the social security system providing their work was legal and they were over 16 years of age. Spain's

labour statistics only referred to legally employed workers. In 1995, 300,000 people in the 16-19 age group had been covered by social security, representing slightly more than 2 per cent of the working population.

51. Spain had ratified ILO Convention No. 87 concerning Freedom of Association and Protection of the Right to Organize, in which article 9 established that national legislation must determine how far the right to form trade unions was guaranteed to the armed forces and police. The Spanish Constitution and the Organization Act of 1985 provided that that right could not be exercised by the members of the armed forces or Guardia Civil, although the latter were permitted to form associations.

52. The Labour Inspectorate conducted spot checks on those sectors most likely to be employing minors, but breaches were virtually impossible to detect.

53. A resident of Spain without sufficient means was entitled to a non-contributory pension. Retirement pensions were awarded to 65-year-olds and disabled persons over 18 could claim disability pensions, the level of which was fixed in the annual State budget. The State's contribution to social security in 1995 had totalled 0.49 per cent of GDP.

54. Regarding obstacles to full implementation of the Covenant in Spain, subsequent Governments would need to abide by the Toledo Agreement (Initial Symposium on the Integration of Young People into Society, Toledo, 4-8 June 1990) and ensure that all the rights were truly realized. The necessary funding would need to be kept separate from taxation and special reserves must be established to take into account economic cycles. Contributions should be restricted to genuine wage-earners in order to simplify their collection. Social allowances must be reduced with a view to stimulating employment, and the age of retirement must be made flexible and the purchasing power of pensions maintained.

The meeting rose at 6 p.m.

UNITED
NATIONS

E

Economic and Social
Council

Distr.
GENERAL

E/C.12/1996/SR.7
22 May 1996

ENGLISH
Original: FRENCH

COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Fourteenth session

SUMMARY RECORD OF THE FIRST PART (PUBLIC)*
OF THE 7th MEETING

Held at the Palais des Nations, Geneva,
on Friday, 3 May 1996, at 10 a.m.

Chairperson: Mr. CEAUSU

CONTENTS

CONSIDERATION OF REPORTS

(a) REPORTS SUBMITTED BY STATES PARTIES IN ACCORDANCE WITH ARTICLES 16 AND 17 OF THE COVENANT (continued)

Third periodic report of Spain (continued)

* The summary record of the second part (closed) of the meeting appears as document E/C.12/1996/SR.7/Add.1.

This record is subject to correction.

Corrections should be submitted in one of the working languages. They should be set forth in a memorandum and also incorporated in a copy of the record. They should be sent within one week of the date of this document to the Official Records Editing Section, room E.4108, Palais des Nations, Geneva.

Any corrections to the records of the public meetings of the Committee at this session will be consolidated in a single corrigendum, to be issued shortly after the end of the session.

GE.96-16069 (E)

The meeting was called to order at 10.10 a.m.

CONSIDERATION OF REPORTS

(a) REPORTS SUBMITTED BY STATES PARTIES IN ACCORDANCE WITH ARTICLES 16 AND 17 OF THE COVENANT (agenda item 4) (continued)

Third periodic report of Spain (continued) (E/1994/104/Add.5; E/C.12/1995/LQ.2/Rev.1)

1. The CHAIRPERSON invited the Spanish delegation to reply to the questions put at the end of the preceding meeting concerning the implementation of articles 6, 8, 9 and 12.

2. Mr. GONZALEZ ESCOLAR (Spain) said that changes had been made in the conditions for award of unemployment benefit in 1992 and 1993 in order to combine effective social protection, in accordance with the Constitution, with a balanced budget. Up to 1989 the unemployment benefit budget had been in balance, but there had been a deficit of 93,800 million pesetas in 1990, 305,000 million in 1991, 283,000 million in 1992, and 369,200 million in 1993. The cost of unemployment benefit had represented 2.7 per cent of GDP in 1985 and 4.5 per cent in 1993. The number of recipients of unemployment benefit, not counting those in Andalusia and Extremadura, had increased from 870,900 in 1989 to 1,700,000 in 1993. The imbalance had been due to the economic crisis and the regulations governing temporary employment contracts which had established a minimum period of contribution of six months for receipt of unemployment benefit. Abuses had also been committed in obtaining the benefit. The 1992 Act had therefore been amended, and the minimum period for entitlement to unemployment benefit had been increased to 12 months. The method of calculating the amount of benefit had been changed. In addition, since all people living in Spain now enjoyed health insurance, unemployment benefit no longer triggered entitlement to such cover. In 1993 the legislation on the minimum level of unemployment benefit had been amended. Social security contributions were deducted from unemployment benefit. Stiffer penalties had been introduced for illegal claim of unemployment allowances. Furthermore, physical persons now had to declare any unemployment benefit to the tax authorities. Thanks to the improvement of the employment situation and the measures taken, the unemployment benefit budget was now balanced, without any change in the rate of cover.

3. Mr. AHMED said that he would like more information about the Guardia Civil trade union mentioned in a country study carried out for the Human Rights Committee. He had understood that the Constitution prohibited members of the Guardia Civil from forming trade unions.

4. Mr. WIMER ZAMBRANO said that, like Mrs. Bonoan-Dandan, he would like statistical information about Spain's shanty towns (chabolas). What central public body kept such information? And what kinds of activity did the central or local authorities carry out in the shanty towns?

5. Mr. GONZALEZ ESCOLAR (Spain), replying to Mr. Ahmed, said that the Guardia Civil was an armed force and therefore its members were not entitled to form trade unions.

6. Mr. AHMED said that he would like to know whether, notwithstanding the prohibition, there was a trade union which had not been registered by the authorities.

7. Mr. GONZALEZ DE LINARES (Spain) said that his delegation was totally unaware of any trade union of the kind. However, the body might be a corporate association and not a trade union; as such, it could carry out public activities. In reply to Mr. Grissa, he confirmed that in Spain the Guardia Civil played a role similar to that of the Gendarmerie in France; it was also responsible for customs and frontier controls.

8. Replying to another question from Mr. Grissa, he said that 64.5 per cent of the persons infected by the HIV virus in Spain were drug addicts and that 14.4 per cent of them engaged in homosexual or bisexual practices. However, the virus was increasingly transmitted heterosexually and perinatally, and 18.44 per cent of the persons infected were women. In December 1995, 11.93 per cent of cases of AIDS in the world had been recorded in Europe, including 2.68 per cent in Spain, 2.97 per cent in France, 2.36 per cent in Italy and 1.06 per cent in Germany. As at 31 December 1995, Spain had had 36,315 cases, with a mortality rate of 60 per cent. Since 1994, 7,000 additional cases had been reported every year to the National Register.

9. Replying to Mr. Adekuoye, he said that the national health services gave priority to treatment of tuberculosis, diabetes, cancer and cardiovascular diseases. Spain had recorded 10,700 cases of tuberculosis in 1985, 7,602 in 1990 and 7,625 in 1995. The slight increase in 1995 had been due to the growing resistance of the tuberculosis virus to antibiotics, as various World Health Organization studies had shown. The incidence of cardiovascular disease had declined slightly from 368 cases per 100,000 inhabitants in 1975 to 344 cases in 1990. The incidence of cancer had been 147 cases per 100,000 persons in 1975, 200 in 1985 and 217 in 1990. Diabetes had increased slightly from 18.5 per cent in 1975 to 22 per cent in both 1985 and 1990.

10. Replying to Mr. Ahmed, he said that the health legislation guaranteed medical cover for all Spaniards and foreigners living in Spain. Tourists usually had their own individual health insurance, and foreigners staying in Spain for a specific period were usually covered by bilateral agreements. The Red Cross hospitals provided free treatment.

11. Local mayors in Spain knew whether there were any shanty towns in their communes and how many people lived in them. It was rather difficult to obtain figures, but he did have for the Committee a computer diskette containing health indicators provided by the Ministry of Health. The indicators included information about the fitness of housing for occupation; it would thus be easy to deduce the number of persons living in unfit accommodation, including shanty towns. He could inform Mr. Wimer Zambrano that the Ministry of Public Works had information on the subject.

12. Mr. TEXIER asked the Spanish delegation whether there had been any cases of transmission of AIDS by blood transfusion in Spain in the first half of the 1980s.

13. Mr. GONZALEZ DE LINARES (Spain) said that there had. Supplies of contaminated blood had unfortunately been used in Spain. The victims and their close relatives had been compensated by the National Health Institute. However, he did not have any specific information about any possible legal action taken in the matter.

14. Replying to a question from Mr. Texier, he said that representatives of the autonomous communities, non-governmental organizations (NGOs) and other sectors of civil society, together with independent experts, had been involved in the preparation of Spain's periodic reports. That work was thus part of a public procedure widely reported in the press and other media. As far as he knew, the only report which had been widely publicized in Spain had been its initial report to the Committee on the Rights of the Child, which had been disseminated in Spain by the Office for Legal Protection of Minors.

15. Replying to a question from Mr. Rattray about the report submitted by the Ombudsman, he said that penalties were provided in the new Criminal Code for civil servants who committed racist or xenophobic acts. Accordingly, such offences did not go unpunished and were not tolerated in practice. Pursuant to article 23 of the new Criminal Code, racist, xenophobic and anti-Semitic behaviour constituted aggravation of an offence. The new Criminal Code also prohibited advocacy of racism or genocide and stipulated sentences of imprisonment and dismissal for State employees who refused to provide a public service for any reason connected with sex, race or ethnic, national or religious affiliation.

16. In reply to another question from Mr. Rattray, which had been taken up by Mr. Thapalia, he said that human rights were included in the curricula of police schools at all levels. The training of senior officers dealt in particular with the functioning and activities of the European Court of Human Rights, and the basic training provided for junior officers gave emphasis to the protection of human rights. Students in the Guardia Civil training centres studied the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights and, in particular, the Council of Europe Directive on police training and relations with immigrants and ethnic groups. Independent experts were invited to give lectures in the training centres on the European Convention on Human Rights and on international humanitarian law.

17. Spain was one of the two countries which had a centre, the Avila Academy, for training members of the police and armed forces in United Nations peace-keeping operations. The experience gained during such operations fostered the development of a sense of civic responsibility and respect for human rights in Spain's forces of law and order.

18. Mr. NUNEZ (Spain), replying to a question from Mrs. Bonoan-Dandan, who had mentioned the concern of a Spanish trade union that economic, social and cultural rights were not respected in the Basque region, said it should be remembered that the fundamental principles of political organization in Spain, described in paragraphs 1-11 of the third periodic report, emphasized the unitary but very decentralized structure of Spain's political institutions, which included 19 autonomous communities enjoying extensive powers. Moreover,

article 146 of the Constitution provided that powers not assumed by the autonomous communities were automatically exercised by the State and vice versa.

19. Mrs. BONOAN-DANDAN asked whether what Mr. Nuñez had said about the political structure of the Spanish State meant that some matters connected with Spain's obligations in the field of economic, social and cultural rights constituted an ill-defined "grey area" between the State and the autonomous communities.

20. Mr. NUÑEZ (Spain) said that he had not intended in his reply to gloss over the issue of the international responsibilities of the Spanish State. In many areas the State and the autonomous communities collaborated to secure their individual or common objectives. In the event of conflict, a procedure was available for delimiting the respective spheres of competence of the State and the autonomous communities. There could not therefore be any "grey area".

21. Mr. ADEKUOYE asked whether Spain's admission to the European Union and the substantial grants which it had received were not part of the reason for a degree of economic stagnation due in particular to inflation and some loss of competitiveness. Might not all those factors complicate the fight against unemployment?

22. Mr. NUÑEZ (Spain) said that Spain's joining of the European Union had indeed created some difficulties in employment. For example, in order to increase the country's economic competitiveness the Government had introduced rationalization measures which had perhaps created short- and medium-term unemployment. However, it was to be hoped that the increased competitiveness of the Spanish economy would enable Spain to penetrate economic sectors of high employment.

23. The CHAIRPERSON thanked the Spanish delegation for its replies, patience and spirit of cooperation and for the competence of its experts, all of which had enabled the Committee to obtain a clearer idea of the way in which the Covenant was implemented in Spain.

24. Mr. NUÑEZ (Spain) assured the Committee that the consideration of the third report had been an extremely enriching experience for the Spanish delegation. He thanked the Committee for putting such specific questions, which had reflected a profound knowledge of the facts of life in Spain, and for its dedication to the implementation of economic, social and cultural rights in Spain. He reaffirmed the determination of the Spanish Government to do everything possible to ensure the exercise of the rights contained in the Covenant and the various international human rights instruments to which Spain was a party.

The public part of the meeting rose at 11.30 a.m.